

RECENT DEVELOPMENTS IN HONG KONG

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BEFORE THE
SUBCOMMITTEE ON ASIA AND THE PACIFIC
OF THE
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INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTH CONGRESS
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WEDNESDAY, JUNE 23, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA AND THE PACIFIC,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 1 o'clock p.m. in Room 2200, Rayburn House Office Building, Hon. James A. Leach presiding.

Mr. LEACH. The Subcommittee will come to order, and on behalf of the Subcommittee, I would like to welcome our distinguished panel of witnesses. At the outset, I must explain that we are beginning the hearing slightly earlier than noticed, because Secretary Powell is scheduled to appear on Capitol Hill later today to discuss the situation in Iraq, and we wanted to be sure Members would have the opportunity to be present for our expert testimony.

In this regard, I would like to take this opportunity to express my condolences to the family of Kim Sun-il for his heinous murder at the hands of the brutal terrorists in Iraq yesterday. Our hearts go out to his loved ones and the people of South Korea. And while Americans may be divided in our Iraq policy, we are united in a deep appreciation for the support we have there from friends and allies around the world, and in this case, particularly South Korea.

As my colleagues are aware, this is the 7th year after Hong Kong's reversion to China. As the Department of State noted in an April, 2004 report to Congress as mandated by the U.S.-Hong Kong Policy Act, the Hong Kong special administrative region remains an international city whose residents continue to enjoy protections of the rule of law and broad civil liberties.

As is also well-understood, the United States maintains substantial economic and political interests in Hong Kong and promotes Hong Kong's high degree of autonomy under Chinese sovereignty. Washington works closely with the authorities in Hong Kong on a wide range of international issues, not the least of which is cooperation in the global campaign against terrorism.

Like Beijing, the United States has an enormous vested interest in the success of the one country, two systems model in Hong Kong. In this context, I believe it would be unwise and counterproductive at this time for the United States to review Hong Kong's treatment under the U.S.-Hong Kong Policy Act, as has been suggested in some quarters.

Having said that, however, recent developments have raised serious concerns in the former British colony as well as around the

world, regarding Beijing's commitment to respect the high degree of autonomy it has promised Hong Kong.

From a congressional perspective, it appears self-evident that advancing democratization and constitutional reform, including universal suffrage, would contribute to the city's political stability and economic prosperity. The authorities in Beijing should realize that a vibrant, democratic and prosperous Hong Kong would be a tremendous asset to China. Hong Kong will only become a threat if China makes it so.

Even though the Basic Law may not technically require fuller democracy by 2007–2008, wisdom as well as respect for autonomy dictates the embrace of democracy for Hong Kong. Having just traveled to Indonesia, Malaysia, and the Philippines, which have held successful local and national elections, I see no reason why Hong Kong, with all its wealth and sophistication, cannot also do so.

The people of Hong Kong made plain their aspirations for greater democratic autonomy—aspirations fully within the framework of the “one country, two systems” formula—when they so impressively demonstrated on July 1, last year. In the aftermath of those peaceful demonstrations, the Hong Kong government appeared to listen to the people and withdrew controversial national security legislation pending additional consultations with the populace of the city. The people of Hong Kong again showed their keen interest in participatory democracy when they turned out in record numbers for District Council elections last November.

Regrettably, however, recent decisions by Beijing setting limits on constitutional development in Hong Kong appear to be inconsistent with the high degree of autonomy promised by the central authorities in the 1982 Joint Declaration and the Basic Law.

Equally dismaying has been a series of incidents in Hong Kong—from several political talk show hosts complaining of apparent threats against them, the appearance of a Chinese flotilla sailing through Victoria Harbor, to the recent attack on the office of legislator Emily Lau—that many perceive to be part of a campaign of intimidation against pro-democracy advocates in Hong Kong.

I understand that in recent weeks tentative steps have been taken by all parties to restore dialogue, build confidence and seek compromise. I earnestly hope these efforts succeed.

Whether the 21st Century is peaceful and whether it is prosperous will depend on whether the world's most populous country can live with itself and become open to the world in a fair and respectful manner. Hong Kong is central to that possibility. As such, it deserves our greatest attention, respect, and good will.

Hong Kong is important unto itself; it is also a model for others. What happens there is watched particularly closely by the Taiwanese. In a globalist world where peoples everywhere are seeking a sense of community to serve as a buttress against political and economic forces beyond the control of individuals and their families, it is next to impossible to reconcile political systems based on unlike institutions and attitudes. Mutual respect for differences is the key to peace and prosperity in a world in which history suggests conflict has been a generational norm.

Mr. Faleomavaega?

[The prepared statement of Mr. Leach follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF IOWA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA AND
THE PACIFIC

On behalf of the Subcommittee, I would like to welcome our distinguished panel of witnesses to our hearing this afternoon on recent developments in Hong Kong. At the outset, I should explain that we are beginning the hearing slightly earlier than originally noticed because Secretary Powell is scheduled to appear on Capitol Hill later today to discuss the situation in Iraq and we wanted to be sure Members had the opportunity to be present for our expert testimony.

In this regard, I would like to take this opportunity to express my condolences to the family of Kim Sun-il for his heinous murder at the hands of brutal terrorists in Iraq yesterday. Our hearts go out to his loved ones and to the people of South Korea. While Americans may be divided on our Iraq policy, we are united in our deep appreciation for the support we have received there from friends and allies around the world, including South Korea.

As my colleagues are aware, this is the seventh year after Hong Kong's reversion to China. As the Department of State noted in an April 2004 report to Congress (as mandated by the U.S.-Hong Kong Policy Act of 1992), the Hong Kong Special Administrative Region (SAR) remains an international city whose residents continue to enjoy protections of the rule of law and broad civil liberties.

As is also well-understood, the U.S. maintains substantial economic and political interests in Hong Kong and promotes Hong Kong's high degree of autonomy under Chinese sovereignty. Washington works closely with the authorities in Hong Kong on a wide range of international issues, not the least of which is cooperation in the global campaign against terrorism.

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Having said that, recent developments have raised serious concerns, in the former British colony as well as around the world, regarding Beijing's commitment to respect the "high degree of autonomy" it has promised Hong Kong.

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Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I certainly would like to associate myself with your statement, Mr. Chairman, concerning the unfortunate situation of where one of the Korean nationals was murdered by the terrorists in Iraq, and certainly offer my condolences and sympathies to the family as well.

Mr. Chairman, before—with my opening statement I would like to share with you a very interesting experience in the fact that we have some very special guests with us in our room, students from the Pacific Region. And I would say that the success of this Fellowship Program that has given scholarships and opportunities to students from the Pacific Island countries, I attribute this, a lot of it, also to your support, Mr. Chairman, for all these years.

We have in our presence three students from East Timor doing undergraduate studies at the University of Hawaii. One also representing Fiji and one representing Samoa, doing graduate studies. And in the process of the last 6 or 7 years, Mr. Chairman, we have approximately graduated over 70 students from these island nations. And certainly I want to express my sincere appreciation for your support over the years of this program that has been dubbed now, by the State Department, as a tremendous success story. And I really appreciate your support and help in doing this.

Mr. LEACH. Will the gentleman yield?

Mr. FALEOMAVAEGA. I will gladly yield.

Mr. LEACH. First, let me also welcome our guests. But I would also suggest to our guests that if the United States Congress had as its average representative capacity the capabilities of its Representative from the Pacific, we would not have any problems of comity or general lack of expertise.

Mr. FALEOMAVAEGA. Well, Mr. Chairman, thank you for that. I want to thank you for calling this hearing today, Mr. Chairman, and certainly we need to examine the status of Hong Kong and its unique relationship with the Peoples' Republic of China.

I recall years ago there were serious concerns about whether it was a good idea to transfer the administration and sovereignty of Hong Kong to the Peoples' Republic of China, especially given the fact that Hong Kong, after all, was a colony of the former British Empire.

Today the State Department says that Hong Kong remains an international city, one of the world's most open and free economies. However, 7 years after Hong Kong's reversion to Chinese sovereignty, events have arisen which suggest that Hong Kong's high level of autonomy is seriously at risk.

For example, the Peoples' Republic of China has made a decision to prevent direct elections of the Chief Executive in 1997. Controversies in Beijing have also arisen over China's decision to limit the ability of Hong Kong to make electoral changes in the near future.

Two years ago, the Hong Kong government also proposed an anti-sedition law under article 23 of the Basic Law. The legislative council was expected to pass the proposal, but a massive demonstration of some half a million residents of Hong Kong stifled the vote, which led the legislation to temporarily be put aside. This decision was brought about as a result of the demonstration and has been widely viewed as a victory for democracy and a major setback for Chinese government.

Since that demonstration, a major movement toward universal suffrage in Hong Kong has begun. In February of this year thousands of people gathered in a peaceful protest in favor of holding free elections for the Chief Executive Officer in 2007 and for legislative elections in 2008. The public's sincere wish for greater, more rapid political changes in Hong Kong has become the most serious controversy under the Basic Law.

People's efforts in Hong Kong have been thwarted, however, by Beijing's active intimidation toward pro-democracy advocates, including prominent radio talk show personalities. Suggestions have been made that the President should exercise authority under the U.S.-Hong Kong Policy Act to change that policy toward Hong Kong. This act still remains a current U.S. policy, and allows the United States to treat Hong Kong differently from the rest of the Peoples' Republic of China. A wide range of legal, economic and trade laws.

I want to ask unanimous consent, Mr. Chairman, to submit for the record a copy of a letter that I am sure our colleagues have received from the Ambassador to the Peoples' Republic of China, challenging some of the allegations, and also one of the proposed resolutions that is now pending in the House as well as in the Senate. And I look what our panel of experts have to say about these elements, and I want to personally welcome our distinguished members of the panel this afternoon, and look forward to hearing from their testimony. Thank you, Mr. Chairman.

Mr. LEACH. Thank you. Let me introduce briefly our three witnesses.

William H. Overholt is Asia Policy Chair at RAND's California Headquarters. Previously he was a Fellow at Harvard. He is a visiting professor at the Yang Xi University in South Korea, and has worked at the Hudson Institute, and, beyond that, is a banker. We won't hold that against you, Dr. Overholt.

He is the author of five books. I think the contrast and subject matter is extraordinarily interesting—from the rise of China to the political risk to the future of Brazil, to Asia's nuclear future. That is a wide-ranging set of interests.

Mr. Peter M. Manikas serves as the National Democratic Institute's Regional Director for Asia Programs. Before joining NDI, he was a consultant to the U.N. Commission for Experts in the form Yugoslavia, and has been a Senior Fellow at DePaul University's College of Law, and an expert on International Criminal Law. And I must say, Mr. Manikas, I am well aware of the lead role of that university in the international criminal legal arena. And personally I think the world community owes a lot to DePaul and the leadership of your people there.

Ms. Veron Hung is an expert in Chinese law. She may be the only person that has come before the Committee as a barrister in England, Wales and Hong Kong, as well as a member of the New York and DC Bars. I am not sure which is more prestigious, but it is a wonderful combination. She has also taught at the City University in Hong Kong as well as at the Peoples' University in Beijing. Welcome to the Subcommittee.

Unless you have a prior arrangement, I will begin in the order of introductions. Is that all right with everybody? And let me say that all statements will be presented in full in the record, without objection, and you may proceed as you see fit.

Dr. Overholt?

**STATEMENT OF WILLIAM H. OVERHOLT, PH.D., ASIA POLICY
CHAIR, RAND CORPORATION**

Mr. OVERHOLT. Thank you, Mr. Chairman. I am very honored to be invited to testify here today. I hope I can be helpful to you. I have submitted a probably excessively long paper for the record. I will summarize the issues more briefly.

When people hear that I lived in Hong Kong for 16 years, they invariably ask oh, how did it change after the handover to China? And the answer is that, for most things, it didn't change noticeably at all. There is a lively free press. People are free to speak. The laws are the same; the judges are the same; they still wear the same silly British wigs.

Mr. LEACH. Excuse me, Ms. Hung, do you want to complain? You are okay? All right, very good.

Mr. OVERHOLT. There are more demonstrations than there used to be. Not because there is more to demonstrate about; there was lots before 1997, but because it has become a major cultural feature of how you express yourself in Hong Kong.

The bottom line is that 22 years after China demanded Hong Kong back, the freedoms are still there and it is somewhat more democratic than it used to be. It is definitely not a democracy, but when China demanded Hong Kong back, all legislators were appointed. And we have seen gradual, positive change. There are 100 footnotes to what I just said. And one of the reasons why I wrote an excessively long paper is that I wanted to deal with a lot of those issues.

But the bottom line is that Hong Kong is a free society. And that is something of a miracle, given where they started, with the British/Chinese divide in 1982. And I think we need to always take that into account.

There are two outstanding issues. Big ones. One is the legal structure for the boundaries of one country, two systems. The other is democracy.

One country, two systems basically means you don't subvert me, I don't subvert you. And in a rule of law system that concept has to have some legal expression, and that is what this article 23 controversy is about. Basically it is a good idea to have some rules, some very clear rules. It basically helps Hong Kong because if you get into a game where Hong Kong is going to try to change the Chinese system, and China is going to try to change the Hong Kong system, it is pretty clear who will win.

But the Hong Kong government drafted a very stringent proposal. It had four major features that Hong Kong people objected strongly to. It tried to ram this through without the usual white paper for discussion. It misrepresented the results of a consultation process. The result was a big demonstration. The government then made enough concessions so that it could have gotten this through if it had started there originally. But there was, by that time, such ill feeling that they didn't get any law at all. The result was to politicize a hitherto very apolitical citizenry.

Another result, surprisingly, was an era of good feeling. After the demonstration everybody handled things well. The Hong Kong government did not interfere, except a little bit at the margin, with the demonstration. The democrats were very careful to keep focused on one issue and not broaden this into something that people in Beijing could misconstrue as instability. And the Chinese government reacted with very broad consultations, including the democrats, and with a program to revive the economy.

So last October/November, the situation looked wonderful. But that leads me to the second big issue, which is democracy. And here I think a little history is enlightening. A lot of people think that the British/Chinese Joint Declaration promised democracy. It didn't. What it promised was that Beijing would appoint the Chief Executive based on consultations and elections. This provided only a very vague, general sense of direction.

However, when China wrote the Basic Law—it was only Chinese who wrote it—it promised the goal of eventual universal suffrage for both the Chief Executive and for the legislators.

Now, why do I mention this history? Because it shows that China isn't ideologically opposed to free universal suffrage elections. The problems lie elsewhere.

This should have been a good time to move forward on democracy. It was a time when there was no separatist movement in Hong Kong. The leading democrats have even supported the idea that Taiwan is part of China. Respect for the central government has been extremely high, particularly last fall. All polls showed that Hong Kong people respected the central government leaders much more than any of their own leaders. Anti-Chinese groups have weakened in Hong Kong substantially since 1997, so China's deepest fears were not being realized. And finally, Hong Kong people clearly want democracy.

But the actual movement of policy has been the opposite. So what has happened? Well, these big demonstrations in Hong Kong were very orderly, very brief, very focused, very much in the Hong Kong tradition, but in China they created almost a consensus fear of instability. You have new leaders in China who don't know very much about Hong Kong. And that goes down a couple of levels.

You had a war scare over the feeling that Taiwan was moving toward independence. President Bush wisely averted what was headed toward a major conflict over Taiwan, but in March, particularly, the sense of a war scare was very, very strong in China.

There is a power struggle going on in Beijing, and the greatest vulnerability of any Chinese leader is if somebody accuses him of being soft on the unity and stability of China. These new leaders are very vulnerable, and that vulnerability is being exploited.

There is an argument that the democracy movement is a product of foreign involvement, and if you know Hong Kong people it is a pretty silly argument. But the argument is very focused on Martin Lee, and his history. So his visit here was taken as a major American intervention in Chinese politics. It was not intended that way here, but the visit was a setback for those in China who were arguing for a softer policy on Hong Kong.

And finally, Chinese leaders, based on their own experience, were absolutely convinced that Hong Kong's discontents must have purely economic roots. So they took action to revive the economy and they were very shocked when Hong Kong people still had some serious political aspirations which they expressed in demonstrations.

To summarize, I would argue that Chinese policy has been based on what I call the three confusions. They have confused the Hong Kong situation with the Taiwan situation. They have confused the broad democracy movement with a few anti-Chinese democracy leaders, and they have confused the meaning of demonstrations in Hong Kong with the meaning of demonstrations at home in China. The result is a very bad situation.

They have taken repressive actions which you have already mentioned, so I won't go through them again. They have created an anxious and threatening atmosphere. From January to May of this year there has been a collision course between Hong Kong public opinion and Chinese policy.

In June there has been kind of a reversion to what was happening last fall. Democratic leaders have taken a stance of emphasizing their loyalty to China. They want democracy but they are loyal to China. Some have accepted a suggestion that they turn their big July 1st demonstration into a celebration of civic society. Tung Chee Hwa, the Chief Executive, has endorsed statements of a group about Hong Kong's core values: Freedom, human rights, rule of law and democracy. The second man in the Hong Kong government, the Chief Secretary, has made a statement saying that eventual democracy is inevitable. And Chinese leaders have committed to broad consultations again, a little bit ambiguously.

I would say this leaves the situation in Beijing's court, that people in Hong Kong are doing about everything they can to make the situation better. It is a major test for the new Chinese leadership. Some people, when they find they have dug themselves into a hole, stop digging and climb out of the hole. Some people dig faster. I don't want to predict the outcome.

Let me just say a few brief words about what this means for American policy. Of course we support democracy and everything you said about democracy stabilizing Hong Kong and being good for China I would certainly endorse. I would revert to the theme that Hong Kong's existing freedoms are precious, and we need to take that into account in everything we do.

Second, if Beijing does things that harm Hong Kong, in our frustration to express our feelings about this I don't think we should be tempted to adopt policies that would do damage ourselves to Hong Kong.

As we express our concerns and frustration, unfortunately, we have very little positive leverage, and we have enormous negative

leverage. If the enemies of democracy in Hong Kong are able to define this as a United States/Chinese confrontation, they win. It has to be a Chinese dialogue with the Hong Kong people.

If we play our hand well, there is no assurance that the outcome will be what we want. If we play it badly, if we overplay our hand, we will certainly get the opposite of what we want. The hard, central point is that Hong Kong will only get democracy when China is comfortable with it. The good news is that by their own writing in the Basic Law they can get comfortable with it. They are afraid of the precedent of political gain seized through demonstrations, not afraid of democracy. So Hong Kong's democracy movement is repositioning itself to reassure Beijing, to make Beijing comfortable with the idea of democracy in Hong Kong.

I would just conclude by saying that I would hope American policy would be right in line with them, and that we wouldn't do anything to undermine the thrust of their efforts at this time.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Overholt follows:]

PREPARED STATEMENT OF WILLIAM H. OVERHOLT, PH.D., ASIA POLICY CHAIR, RAND CORPORATION

SUMMARY

Hong Kong's freedoms promised under "one country two systems" are intact: freedom of speech, press, demonstration, and movement, and retention of British law and the capitalist economic system. As anywhere, controversies have arisen at the margin. Settlement of the freedom issues has been satisfactory, albeit sometimes messy. Hong Kong is a free society.

Two issues have not been resolved. First, "one country two systems" means mutual non-subversion and Basic Law Article 23 requires anti-subversion legislation. The Hong Kong government's proposed stringent legislation provoked overwhelming and successful opposition. Disingenuous Hong Kong government handling of this issue, following failures to revive the economy, politicized a previously apolitical society.

Second, democracy. Hong Kong is now more democratic than when China demanded Hong Kong back from Britain, but 30 of 60 legislators are elected through narrow functional constituencies and the Chief Executive by a narrow committee that allows Beijing to handpick him. The Basic Law sets universal suffrage in electing the Chief Executive and Legislature as an ultimate goal after 2007 but calls for gradual and orderly change, does not set a timetable, and makes Beijing the arbiter of appropriate conditions.

A gridlocked Hong Kong government has had difficulty undertaking vital economic reform. To end gridlock, it could theoretically go back to the more dictatorial British system or forward to a more democratic system that would develop the political skills, political coalitions and policy mandates to move policy forward. But Hong Kong people will resist retrograde change and Beijing will block democratization if it feels threatened.

Arguably Beijing should feel comfortable with democratization because Hong Kong has no independence movement and democratic leaders have strongly supported China's view on Taiwan. Anti-Chinese leaders and movements have weakened since 1997. Demonstrations for democracy have been orderly and lawful. Public opinion polls reveal strong respect for the central government and its leaders.

However, Beijing has reacted defensively and has issued a preemptive law barring direct elections of the Chief Executive in 2007 and of the 30 functional-constituency legislators in 2008. New central government leaders, largely unfamiliar with Hong Kong, have misinterpreted large demonstrations as instability. They have made decisions in the context of a Taiwan crisis that makes them vulnerable to charges of failing to protect national unity. They believed that economic recovery and insistence that Hong Kong business leaders support the Chief Executive would calm discontent, and have felt betrayed when their successful engineering of Hong Kong economic growth failed to achieve political quiescence. They erroneously equate the broad democracy movement with a few leaders who have a history of mobilizing antagonism to China. Chinese experts with a more sophisticated view of Hong Kong

were silenced when a strong U.S. show of support for Martin Lee gave credence to fallacious arguments that the democracy movement is a product of British-U.S. efforts to weaken China.

In effect, central government leaders have confused Hong Kong with Taiwan, the democracy movement with a few provocative pro-democracy leaders, and orderly, lawful, brief demonstrations in Hong Kong with anti-regime demonstrations in China proper. A series of repressive measures and announcements in January-May 2004 have created an atmosphere of tension and anxiety in Hong Kong.

Constructive discussions have revived in June. Democratic leaders have reaffirmed loyalty to China and suggested turning the coming July 1 demonstration into a celebration of civic society. Hong Kong government leaders have pledged their commitment to core values of freedom, human rights, rule of law and democracy. Central government spokesmen have pledged somewhat ambiguously to resume dialogue with all sectors in Hong Kong. While there is absolutely no assurance that Beijing will now move from consultations to concrete proposals, an optimist could build hope around efforts at constructive dialogue, repeated high level re-commitment to eventual universal suffrage, and the reformist intelligence of many of the key personalities in Hong Kong and China proper.

What principles should U.S. policy follow? We of course support democratic progress. Amid concern about today's problems, we should remember the value of the Hong Kong's existing freedoms. Thus, when we respond to central government actions that might damage Hong Kong, we must take care not to do damage ourselves.

U.S. positive leverage is frustratingly limited. Our negative leverage is large. Regardless of the intensity of our good intentions, the central reality is that Hong Kong will only get democracy when Beijing is comfortable with it. Anti-democratic forces will triumph if they can define the Hong Kong problem as a Chinese-American confrontation rather than a dialogue with the Hong Kong people. If we play our hand properly, we have absolutely no assurance of success. If we overplay our hand, we will surely fail. Hong Kong's democratic forces are organizing to increase Beijing's comfort with democratization; we should not inadvertently undermine them.

If this seems a counsel of impotence, there is some comfort: if Chinese leaders create a major confrontation with Hong Kong, the economic damage to China will be greater than any sanctions we can imagine. Reversion to threats and flotillas will be self-sanctioning.

Anyone who offers confident predictions about the immediate future probably doesn't understand the situation. But I will close this summary with two positive thoughts. First, China's reformist leaders have so far displayed considerable acumen for calculating their country's self-interest, and any knowledgeable calculation of their self-interest must conclude that a revival of Deng Xiaoping's past political generosity toward Hong Kong will pay huge dividends. Second, Hong Kong today is considerably more democratic and a smidgen freer than when China demanded it back from Britain in 1982. Anyone who is totally pessimistic about the future joins thousands of commentators who said that was impossible.

HONG KONG AT THE CROSSROADS

Mr. Chairman, I am honored to be invited to testify before this committee.

As background, I lived in Hong Kong from 1985 to 2001, leading research units for investment banks. I am by training and inclination a scholar. While in Hong Kong, I wrote a book, *The Rise of China*, about China and Hong Kong and served for six years each on the boards of the American Chamber of Commerce in Hong Kong and of a local counterpart, the Business and Professionals Federation of Hong Kong. In connection with the latter, I helped lead a study of Hong Kong's economic future and served as spokesman for a delegation that persuaded Premier Li Peng to abandon the policy of withholding decisions about the Court of Final Appeal until after 1997 handover of sovereignty. My published work has emphasized the value of democratization for Hong Kong.¹

I am testifying today at the Committee's invitation and not on behalf of any interest group.

A Period of Anxiety

Hong Kong today is in a period of stress and uncertainty. Recent Chinese central government policies have raised anxiety in Hong Kong and created a threatening atmosphere. The risks to the future are considerable. The problems that have

¹See "Hong Kong: The Perils of Semi-Democracy," *Journal of Democracy*, October 2001

emerged could conceivably escalate and cause great difficulty for Hong Kong, serious economic and political setbacks for Beijing, and significant strains in US-China relations. All of this is somewhat surprising because only last fall there was an atmosphere in Hong Kong of remarkable good feeling toward the central government. Amicable resolution remains possible, and there have been preliminary hopeful signs in June 2004.

The Record, 1997-2003

In situations like this, it is useful to step back and understand the broad context before drilling down into current events.

The backdrop of Hong Kong's current situation is one of the modern era's great triumphs of diplomacy, moderation, mutual understanding, and leadership. When Britain and China began in 1982 to negotiate Hong Kong's return to Chinese sovereignty, the mistrust, fear, and ideological division between China and the West were so much greater than today that it is difficult to overstate the obstacles to agreement. Only leaders as determined and as confident as Margaret Thatcher and Deng Xiaoping could have forged the agreement. Prime Minister Thatcher realized that she could preserve the freedoms of the Hong Kong people by cutting a deal that relied on Chinese economic interests in a vibrant Hong Kong. Most remarkably for the leader of a country that had been profoundly ideological, profoundly isolated, and at times profoundly hostile to the West, Deng Xiaoping realized that China had much to gain economically from preserving British institutions after the British leaders had departed.

The "one country two systems" formula that they agreed upon promised to preserve Hong Kong's separate judicial system, capitalist economic system, separate currency, and social freedoms. It did not promise full democracy, and indeed the British as well as the Chinese negotiators were somewhat skeptical of the appropriateness of full democracy for Hong Kong, but their agreement provided for gradual moves in the general direction of democratization.²

In terms of what was promised, the "one country two systems" agreement has through the end of 2003 been about as complete a success as anyone could have imagined. The legal system has the same laws, interpreted the same way, by the same judges or by judges chosen in the same fashion, as before. The ultimate appeal has no longer been to the Privy Council in London but rather to the Standing Committee of the National Peoples Congress, but the SCNPC was extremely cautious through last year in exercising its authority. (I will speak below about what has happened this year.) No commercial dispute, divorce, or freedom of any kind other than immigration into Hong Kong was affected by the handover. Hong Kong has remained a remarkably cosmopolitan international city; English is an official language and foreigners are permitted to occupy up to 20% of the seats in the legislature, to hold relatively senior government positions, and, after seven years' residence, to vote.

Likewise the press has been utterly free from any kind of government restraint. So-called self-censorship did occur for commercial reasons. For example, one newspaper forced out Hong Kong's two favorite humorists and its best-known China reporter, in order to pursue its desire to build a major market in China. But all three are employed, and are free to skewer China as they like, at other prestigious publications in Hong Kong. The *Asian Wall Street Journal*, whose editorial page is no apologist for China, continues to base itself in Hong Kong, and the Hong Kong Chinese press commentary runs the whole gamut from acknowledged mouthpieces of the Chinese Communist Party to vitriolic sarcasm toward it. Skewering Hong Kong's Chief Executive is Hong Kong's leading media sport.

Demonstrations have become much more common in post-1997 Hong Kong than they were under the British. Although some NGOs still have complaints, the laws are looser than before and they often are loosely enforced. Indeed, Hong Kong has become a culture of demonstrations. One of the commonplaces in the media prior to 1997 was that, after the 1997 handover, there would be no more Hong Kong demonstrations protesting the June 4 slaughter near Tiananmen Square. But in fact the 1998 vigil was bigger than its predecessors and this year's was variously estimated from 50,000 to 82,000 demonstrators.

Freedom of religion has been sacrosanct; notwithstanding Tung Chee-hwa's reference to Falun Gong as an "evil cult," the sect at one time rented out City Hall for a major meeting and practitioners who would be jailed or worse on the other

²"The chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally," *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong*, December 19, 1984, Article 3(3).

side of the border practice freely and openly. They exercise every morning near the main government buildings, and collect money in Hong Kong's most prominent locations such as the entrance to the Star Ferry.

What Prime Ministers Thatcher and Deng, together with their successors and the Hong Kong people, have achieved is remarkable and, notwithstanding concern about a succession of issues, we should remember this.

Just as we have had to spend two centuries defining the legal balances and boundaries among the parts of our constitution, Hong Kong and China have had to define the balances and boundaries of "one country two systems." The method for defining such boundaries is legal skirmishes, for instance over immigration and over the division of labor between the Final Court of Appeal and the Standing Committee of the National Peoples Congress.³

What has been most noteworthy about this process of defining boundaries and balances and limits has been the absence of significant legal or public policy controversies over freedom of speech, freedom of the press, freedom of demonstrations, independent judicial proceedings, and in general the range of "freedom issues" that were of greatest concern to skeptics about the viability of freedom in a territory seeking to maintain autonomy under the sovereignty of a communist state. While the ultimate appeal is now to the Standing Committee of the National Peoples Congress rather than London's Privy Council, the Standing Committee has used its right of interpretation only twice. I will comment later on the problems created by the most recent interpretation, but I want to underline that the basic body of law, judicial structures, and freedoms has been preserved.

Mr. Chairman, all segments of Hong Kong society agree that Hong Kong's basic freedoms have been maintained. Martin Lee testified before the Senate counterpart of this committee on March 4 that Hong Kong enjoys "a free press, an independent judiciary and a lively civil society."⁴

What the skeptics failed to comprehend was that Deng Xiaoping and his immediate successors understood the connection between Hong Kong's prosperity and its freedoms and its rule of law. Those who believed these were tactical concessions that the British wrung from reluctant autocrats, and that therefore there must be a secret plan for taking back those promises two or three years after 1997, misread the situation. Deng's view was the opposite. Reflecting on the deal well after the agreements had been signed, he commented that China had made a mistake. China should, he said, have made Hong Kong's grant of autonomy run for 100 years rather than 50.

Hong Kong is in fact both freer and more democratic than it was before China demanded the return of Hong Kong. Repressive British laws were repealed, and some repressive practices have disappeared. Hong Kong has evolved from a consultative colonial dictatorship to a semi-democracy. For instance, before Britain acquiesced in Hong Kong's return to China, all members of the legislature were appointed by a British Governor. Now half are elected through full suffrage and half through narrower functional constituencies.

Hong Kong has also been successful through 2003 in two other respects. Notwithstanding some economic difficulties in a few recent years, it has maintained a high standard of living for its own people and made an enormous contribution to China's

³The skirmish over immigration was the most severe test. The British had warned the Chinese to give Hong Kong residence rights only to those in China with two Hong Kong parents. China, failing to recognize that every macho Hong Kong truck driver had sought out a mistress on the other side of the border, chose to grant it to those with only one Hong Kong parent. Subsequently many in Hong Kong came to fear a flood of immigrants. China and the Hong Kong government, seeking an "orderly" process, insisted that every potential emigrant to China join a slow-moving queue to get an exit permit and the Hong Kong government moved to expel those who had sneaked across the border. Immigrants and their Hong Kong friends said, no, they had a constitutional right to immediate residence in Hong Kong. The Hong Kong government sought to panic the population and the court with exceptionally misleading statistics about the prospective flood. The Court rejected the government's arguments and in the process staked out breathtakingly wide claims to jurisdiction over interpretations of the Basic Law. Calls arose for the Standing Committee of the National Peoples Congress to amend Hong Kong's Basic Law, but the latter refused to do so on the sensible ground that it was bad to set a precedent of amending Hong Kong's constitutional document for convenience. The Hong Kong government then called on the Standing Committee of the National People's Congress to interpret the law; it did so, approving the government-favored process with a somewhat hamhanded ruling. It took the opportunity to assert its own role, defined in the Basic Law, as ultimate interpreter of the Basic Law. The process was messy, as such boundary skirmishes often are anywhere, but the ultimate result both on immigration and on jurisdiction was a legally and morally defensible one.

⁴Testimony By Martin Lee Chu-ming, Member of Legislative Council in Hong Kong To the Senate East Asian and Pacific Affairs Subcommittee of the Foreign Relations Committee (*updated version*), 4 March 2004

modernization. Hong Kong still accounts for a major share of China's trade and is the largest "foreign" investor in China. Second, by example and by institutional outreach, it has contributed to:

- spreading the concept of rule of law in China;
- development of specific areas of Chinese law;
- spreading acceptance of the concept of mutually profitable long-term partnership with foreigners, in business and elsewhere;
- the spread of higher accounting standards and transparency in China;
- the broad Chinese public consciousness of the idea of rights;
- the advance of academic freedom in China;
- Chinese acceptance that an inquisitive and moderately aggressive press can be valuable to society;

And many others.

When you travel into China proper from Hong Kong, you find that adjacent areas feel, look and function more like Hong Kong than like the old China. The lives of tens of millions of people in nearby areas have been uplifted, not just in terms of consumer goods but also in terms of attitudes toward foreigners, personal outspokenness, respect for the private sector, attitudes toward law and contracts, and consciousness of rights.

Many of China's most prominent companies want to do business under Hong Kong law. This is part of a spreading appreciation in China for the rule of law.

Mr. Chairman, when I was in Beijing last week I picked up a copy of the June 10 Beijing Review, a weekly English-language information/propaganda publication of the Chinese government. One of the lead articles was titled "Calling for an independent judiciary" and subtitled "China needs to untangle government from its judicial system." A key passage was "Government intervention produces arbitrary judgments, which may not correspond to law. Not only does bureaucratic tampering unnecessarily bring about corruption, [but also] consistent malpractice damages the professional integrity of judges, rendering them puppets of others." The article highlights the terrible problems of corruption in the judiciary, partly as a result of government intervention. While there are several causes of China's radical shift from the view that the judiciary should simply be a tool of the Party, and from the view that the press should be wholly uncritical, no cause has been more important than the example of Hong Kong and the lesson of the enthusiasm of both Chinese and foreign companies for Hong Kong's legal guarantees.

We can lecture to exhaustion about the advantages of the rule of law and of meddling media. To a traditional Chinese Communist Party official, those arguments would have seemed to be the implausible excrescences of an alien ideology. What makes rapid change in old attitudes palatable and what makes the issues concrete is direct experience in a non-threatening situation. That is why Hong Kong's influence has been transformative-transformative, even though implementation of an independent judiciary has barely begun and acceptance of meddling reporters has a long ways to go.

From that base of successes, how have we come to today's troublesome situation?

Weakness of the pure business model of Hong Kong

Prior to the handover of sovereignty on July 1, 1997, there was widespread belief (not including this writer) that the handover would imperil Hong Kong's freedoms but that the world's freest economy would continue to thrive because it would continue to be administered by a highly competent civil service. The principal threat to the economy was almost universally assumed to be mass emigration of the civil service along with other talented executives.⁵

What happened, as is so often the case with China, was exactly the opposite. Hong Kong's freedoms were admirably maintained. Not democracy, but freedoms. Hong Kong's civil service, which enjoys pay and perquisites that are almost unimaginable in the United States, stayed put and all the senior officials were kept on. The brain drain was always a myth: there was net immigration every year, and as the handover neared the number of people moving in rose dramatically while the number moving out declined substantially—exactly the opposite of the impression conveyed by most of our media. But the economy proved to have substantial problems and the new Hong Kong government proved unable to resolve them.

⁵ Current political stresses have recently led some members of the senior civil service to request transfers or early retirement.

The Asian Crisis began with the collapse of the Thai currency on July 2, 1997, the day after the Hong Kong handover. That crisis revealed that most of the Asian miracle economies, including Hong Kong, had serious structural problems. In particular, Hong Kong's property system is prone to bubbles and financial crisis, Hong Kong's education system now lags behind Shanghai's, Hong Kong's system of cartels threatens to make it less competitive as competing cities reform, the tax system has too narrow a base with revenues dependent on government action to maintain extremely high property prices, and the civil service needs major reform. Unlike a number of other Asian economies, including both democratic South Korea and authoritarian China, Hong Kong has so far been unable to respond effectively to the new era by instituting needed reforms. The one major reform, which was the key to the current economic revival, was the closer integration of the Hong Kong economy with neighboring parts of China, a tremendously successful, long overdue effort that was masterminded by the Chinese authorities. This problem derives from the inadequacies of what might be called the business model of Hong Kong.

There has long been a Western myth that Hong Kong is a *laissez faire* economy merely administered by an apolitical civil service. The Chinese version of the myth is that Hong Kong is an economic city, not a political city. That is why the city's leader is called Chief Executive, not Governor or Mayor.⁶

The reality, once again, is close to the opposite. Hong Kong's economy is highly regulated, far more so than for instance our own economy. Trade and investment are indeed free, but half the population lives in government housing, the currency is pegged to the U.S. dollar, and the economy is managed through a set of cartels, mostly created directly or indirectly by government regulations, that control housing, airlines, taxis, conventions, interest rates, electricity, gas, ports, moving companies, water, buses, food distribution, gambling, car distribution, gasoline, pharmaceuticals, education, performance theaters, cruise terminals, and the principal services such as lawyers, doctors, nurses, and dentists.

Moreover, and this is crucial, maintaining Hong Kong's edge in sophisticated services like capital markets, banking, and accounting requires visionary leadership, not just administration.

Thus the economic reality is that the Hong Kong economy is a highly administered economy, and the political reality is that Hong Kong requires real leadership. The traditional myth of an economic city administered by a politically neutral civil service required one to ignore the presence of a British Governor with near-dictatorial powers, the visionary leadership exercised by several of those Governors as conditions changed, the rallying of social leaders and public opinion by the Governors in times of crisis, the addition of a new layers of advisory bodies after each major crisis in order to maintain political order, the use of the British political leadership and the British civil service to make the key plans and resolve crises⁷, and the pervasive use of British consulting firms to do everything from cleaning up the stock exchange to choosing acceptable cement for the new airport.

Even those like myself who always rejected the myths of the *laissez-faire* economy and the society that was administered rather than led did not understand how the structure of the post-handover government hobbled the city's leadership. Hong Kong is supposed to have executive-led government, with a strong Chief Executive (CE) modeled on the British Governor overseeing a compliant civil service and a relatively tame legislature. The reality is close to the opposite. The CE has a personal staff of only half a dozen. Unlike the old British Governors, the CE has no counterpart of Margaret Thatcher and her economic advisors to back him up. The theory of an Economic City and the method of selection by a small group of business executives and conservative notables virtually guarantee that the Chief Executive will be an executive without political experience—without for instance experience in going on television to rally the public or in convening disparate interest group leaders to forge compromises and consensus.

That leaves Hong Kong's Chief Executive highly dependent on the legislature and the civil service. But the tame legislature and the compliant civil service have not materialized. The typical legislator is a highly successful executive with a mind of

⁶Underlying the myth of a pure economic city is a policy truth, namely that China's acceptance of Hong Kong's freedoms and British laws derived from Chinese interest in maintaining Hong Kong's economic vitality. Deng Xiaoping's realization that Hong Kong's economic vitality depended on its rule of law was the seed from which the current Chinese acceptance of the idea of rule of law grew. Actual practice is still more a seedling than a tree, but the seedling shows real growth.

⁷To take one example, the Hong Kong economy got into very serious trouble in September, 1983, with a currency collapse, a banking crisis, and runs on grocery stores. Under the guidance of Prime Minister Thatcher's principal economic advisor, the government instituted a currency peg to the U.S. dollar and thereby resolved the crisis.

his or her own, who gains confidence from an electoral mandate that conveys greater legitimacy than the Chief Executive's. The legislators resent the Chief Executive's assumption that he is the boss and they are the subordinates and, although his major bills get through, find numerous ways to frustrate him. Moreover, since they have limited opportunity to push legislative initiatives, and very little likelihood of ever being chosen for top government jobs, legislators have few incentives to rise above constituency concerns and push a long-term development agenda.

If there is any view common to most civil services, anywhere in the world including Hong Kong, it is that the way things have been done is just fine so why cause trouble by trying to change them. Hong Kong's civil service leadership has opposed education reform, competition policy, housing reform, tax reform, and of course civil service reform. Beyond the normal inertia of civil services, much of Hong Kong's civil service leadership at the transition and afterward found a mobilizing principle in the idea that it was protecting Hong Kong from China and that the Chief Executive personified China. Until recently, civil servants continued to treat contacts with their counterparts across the border as a security risk and senior officials from neighboring provinces as country bumpkins. This was both wrong and damaging to the economy. As a consequence of such inertia in other areas, Hong Kong's education system has fallen far behind Shanghai's and, to take just one example, its housing system is far more socialist than Shanghai's.

The civil service also reacted with only partly suppressed outrage to the process of legislative accountability. Being called by legislative committees to explain and defend policies in front of sometimes querulous legislators was a largely unfamiliar and hated task.

These problems add up to a gridlocked government—primarily for structural reasons. Each part of the triangle—Chief Executive, civil service, and legislature—has serious difficulties in working with the other two, and there is no mobilized political force to push them in a common direction. In principle, the dictatorial powers of the old British Governor could push them in common direction, and so could a democratically elected political coalition, but today Hong Kong has neither.

However, just as we personalize our political problems, so the media and public opinion have personalized Hong Kong's problem by blaming the Chief Executive. This is only partly fair. Chief Executive Tung Chee Hwa is an honest and well-meaning business executive. He was chosen to "preserve" Hong Kong's system. In the run up to the handover, neither British nor Chinese officials could get through more than a few sentences without emphasizing that central goal: to "preserve" Hong Kong's system. The emphasis was neither on political reform nor on economic reform. It was on preservation. By and large Mr. Tung has done that. Under him, Hong Kong has preserved the economic system. It has preserved the legal system. It has preserved the fundamental freedoms. It has preserved the political system. He presides over a culture of demonstrations and outspoken opinions while reassuring Beijing. That is a significant achievement. Had he wished to do so, Mr. Tung could have done considerable damage to the free press, the right of free speech, the right to demonstrate, and others. He has instead preserved the system as he was hired to do. But it is the fate of political leaders to be faced with challenges different from those for which they prepared.

Mr. Tung was chosen by Beijing to be an apolitical administrator of an apolitical economic city. Nothing prepared him for either the tasks of economic reform or the task of leading a polity where, inevitably, the disappearance of the colonial power elicited a flowering of civil society. His reformist vision was confined to housing and education, areas that brought him popularity when he first ran for office, but he has been unable to make substantial progress in either area. He has no experience at rallying public opinion or forging coalitions. The reality is that any large and sophisticated economy and any substantial population require experienced political leadership, not just administration. Hong Kong is not a business to be administered. It is a society to be led.

Although Mr. Tung has borne the brunt of popular and media frustration, ultimately the response of Hong Kong people to a structural problem has been migration toward a structural solution: support for democratic political reform has broadened and deepened. For the most part, this is not based on a sophisticated analysis of structural gridlock. It is personalized. Many people say: We let Beijing choose our leader. We gave them a fair chance. They blew it. Now they have a responsibility to let us try. Today that sentiment is absolutely pervasive in Hong Kong and some of Hong Kong's tycoons now share it.

Polls have always shown majority support for democracy in Hong Kong. Now they show quite strong support.⁸

Obstacles to democracy inside Hong Kong

Mr. Chairman, democratization has faced significant obstacles within Hong Kong as well as in Beijing's relationship with Hong Kong. Much of the business leadership, which Beijing views as the natural voice of the "economic city," opposes democratization, and the democratic forces, although broad, have been weak and divided.

The central government has traditionally communicated with Hong Kong primarily through the business elite. The business elite in turn has traditionally taken the view that Hong Kong people are not ready for democracy, that prospective leaders are too immature, and that democracy could damage Hong Kong's economy.

The view that the population is not ready for democracy is insupportable. Education levels are high, income levels are higher than Britain, and there is a substantial middle class. Moreover, the population is highly concentrated, with extraordinary communications, so there is more shared consciousness of issues and leaders than in most modern democracies.

Hong Kong society is deeply divided, with both a wealthy elite and a large population that is squeezed into tiny, government-provided apartments. A large portion of the lower half of the income distribution just doesn't buy into the prevailing economic system. Moreover, the majority of people don't pay significant taxes, so they have an incentive to demand services without much regard for cost. The economic elite is concerned about what policies these people would support if their votes dominated the political system. They point to bills supported by both major parties that pander to damaging populist views.⁹ Effectively, the message of the elite has been, no representation without taxation, no universal suffrage until fully responsible leaders emerge.

There is, however, a neglected option of both taxation and representation. Moreover, the seeming lack of responsible leaders is arguably a product of the current political system, which gives politicians of all parties an incentive to advocate populist positions and no potential career benefit from trying to moderate those positions. The results of a system constructed with no career benefits from being responsible probably do not provide a valid indicator of how they would behave if they possessed, or could aspire to, serious responsibilities. "Support" for bills that pander to constituents but have no chance of becoming law does not mean that such bills would become law if legislators had to live with the consequences. The personal sophistication of Hong Kong's legislators, the electorate's exquisite sensitivity to economic performance, an awareness of economic principles substantially superior to what we have in the U.S., the immediate feedback that occurs in this tightly-knit city, and the range of buffers against fundamental change lead me to confidence that elections under universal suffrage would lead to responsible government.

Having said that, the social divide nonetheless creates a substantial constituency for legislation that would be well to the left of contemporary European socialism. Hong Kong's leaders would have been wiser to ameliorate the social divide earlier. They are going to pay some price in some of their traditional businesses for having held onto the full range of their privileges a bit too long. Hong Kong's cartel and tax system were originally designed to channel wealth into the hands of a British expatriate elite and now do so for a post-colonial elite; the resulting social divide is inappropriate for the post-colonial period and Hong Kong's high cartelized prices will likely prove unsustainable as other cities become more competitive. But it would be a mistake to exaggerate the price they will pay or the speed at which they will pay a price. Hong Kong people are instinctively cautious and moderate. Moreover, the dismantling of Hong Kong's cartels, a likely consequence of democratization, and the emergence of powerful consumer advocates would be good for Hong Kong's economy—as shown by the enormous benefits the city has experienced from increasing telecommunications competition. Any price the business elite pays will be more than compensated by new opportunities.

⁸According to a mid-May 2004 survey by the Hong Kong University Public Opinion Program, the single most strongly supported political organization in Hong Kong was the Article 45 Concern Group, set up to call for universal suffrage as provided for in Article 45 of Hong Kong's Basic Law. See <http://hkupop.hku.hk/>. The Democratic Party was ranked third and its pro-Beijing competitor, the DAB, was ranked next to last.

⁹Popular views of politicians aren't necessarily that different. In a recent poll, 16.2% felt the DP, Hong Kong's most popular party, was doing a good or somewhat good job on economic issues, while 44.8% felt it was not doing a good job. See "Second Multi-Party Opinion Survey on Political Development in Hong Kong" at the Hong Kong University Public Opinion Program site cited above.

Hong Kong's party system is quite immature. The Democratic Party (DP) has 568 members, according to its website in mid-June 2004, and its supporters are deeply divided between a social elite that is committed to Hong Kong's current economic system and a mass base that includes powerful forces with populist and even socialist views. The party has consistently failed to raise significant funds from the citizenry. In a recent poll, a quarter of the population felt that the DP "represents its interests," with only 5.4% feeling that the DP "very much represents its interests." Half the population (49.7%) had a negative or strongly negative view of whether the DP represented its interests.¹⁰

The other principal party, the DAB, commonly characterized as pro-Beijing, has an organizational structure that was consciously copied from the U.S. Its better-organized relationships between leaders and constituents has on occasion brought it close to victory, but it has repeatedly lost ground through scandals and support of unpopular positions. For instance, it initially supported the Article 23 legislation, and paid the price with voters, although it subsequently changed its mind. It depends financially on local subsidiaries of big Chinese state enterprises to fund many activities.

The Democratic Party has heretofore had difficulty charting a credible path to democracy under Hong Kong's peculiar circumstances. The Party includes a group of leaders from the Hong Kong Alliance in Support of Patriotic Democratic Movements of China. While the idea of promoting democracy in China is a noble one, having part of the leadership of a major political party promoting political transformation on the other side of the border is manifestly inconsistent with the concept of "One Country Two Systems." One prominent leader of the Democratic Party, Martin Lee, wisely resigned from the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, but he founded his image, particularly overseas, on the intimation that after July 1, 1997 he was likely to be jailed or killed. His favorite line in the year before the handover was to close his speeches by saying that he was eating less in order to prepare himself for jail. Time after time he gave speeches asserting that someone arrested by Chinese soldier in Hong Kong could not get a fair trial—but always failed to mention that the Basic Law specifically prohibited Chinese soldiers from doing any such thing. Such lines often brought tears to the eyes of normally tough-minded American politicians and executives, but they damaged his credibility in Hong Kong and left both himself and the democratic movement a jumbo mortgage of political ill-will to amortize in both Hong Kong and Beijing. He and others are now repositioning themselves more in line with the center of gravity of Hong Kong opinion, and this may eventually enhance the chances of democratization.

Aside from the central government's reaction to the legacy of anti-Chinese postures, these have created a fundamental ambivalence in the Hong Kong electorate toward some of the leaders of the democracy movement. Hong Kong people want strong voices for democracy and therefore they elect, *inter alia*, Martin Lee to speak out as part of the opposition. On the other hand, they do not wish to be actually governed by people who make a career out of sparking gratuitous conflict with the central government. That is why, in the runup to the handover, only 11% of people polled said they would trust Martin Lee to be Chief Executive while five times and six times that number said they would Tung Chee-hwa and Anson Chan respectively. (Anson Chan was highest because she spoke out strongly for Hong Kong's freedoms, demonstrated exceptional administrative talent, and never asserted that Beijing would jail her after the handover.)

Thus the democracy movement has a fairly broad base, but the principal institutions and key leaders advocating democracy have limited public support.

On balance:

The Hong Kong elite is increasingly left with Churchill's dictum: ". . . democracy is the worst form of government except all those other forms that have been tried from time to time."

The democratic movement remains in search of leaders and institutions that can organize the broad support that exists for democracy.

Beijing finds itself uncomfortably relying on the advice of a limited number of traditional business leaders who are increasingly at odds with popular sentiment. Moreover, the business leadership is increasingly divided regarding democracy, and repression of democratic sentiment just makes it stronger.

Hong Kong people are just getting fed up. Polls show a decline in respect for both Beijing and provocative democratic leaders.

¹⁰ See "Second Multi-Party Opinion Survey on Political Development in Hong Kong" at the Hong Kong University Public Opinion Program site cited above.

As each group wrestles with this dilemma, there have been both very ominous developments and more recently some very hopeful signs.

Hong Kong's options

Structurally, Hong Kong has three basic options. One is to continue trying to make the gridlocked business model work. The consequence of that option would be like trying to accelerate a powerful car against a concrete wall; there will be a lot of overheating and smoke and sparks and possibly even danger.

Second, in principle Hong Kong could revert to the more authoritarian mode of the British era, with Beijing backing up Hong Kong leaders the way London once did. That is what has happened with Beijing's successful measures to rejuvenate the Hong Kong economy. The problem with that option is that over any significant period of time the majority of Hong Kong's people won't accept it. In the short run they will demonstrate, probably in a very disciplined and civilized way; in the long run, they'll leave. That's exactly the outcome Deng Xiaoping was trying to avoid.

The third option is greater democratization. Direct election of the chief executive and the legislature would choose a leader with political skills, create a class of skilled politicians, force the formation of a coalition with certain policy mandates, give the Chief Executive a mandate as good as and broader than any legislator's, and stimulate an informed debate about issues like education reform. It would force the development of more mature political parties, and it would give at least some politicians the incentive to advocate responsible policies in the hope of being elected or selected for top government positions. It would force the civil service to abandon the rationale that they have a mandate to protect Hong Kong from China by frustrating reform. But the central government will not accept the third option if it feels threatened.

The highs of 2003 and the lows of 2004

In 2003, the Hong Kong government decided to address the last major boundary issue. The essence of the "one country, two systems" idea is that China will not subvert Hong Kong's major institutions and conversely Hong Kong will not subvert China's major institutions. The deal obviously has to work both ways. If they get into the business of subverting each other, it is obvious from looking at the map, or at population numbers, that China will win. So this deal primarily benefits Hong Kong.

In a system based on the rule of law, such a deal must have concrete legal expression. Hence Article 23 of Hong Kong's Basic Law requires the passage of specific legislation to prohibit subversion.¹¹ It is important to recognize from the beginning that the principle is not a terrible idea, but rather a good and essential one. The devil is in the details.

After Hong Kong returned to China on July 1, 1997, the government deferred passage of controversial anti-subversion legislation. Six years later, in July 2003, the Hong Kong government proposed to pass stringent Article 23 legislation with elements that attracted widespread opposition. In particular, the law would have allowed an Assistant Police Commissioner (rather than the courts) to authorize searches of private homes, allowed the government to proscribe organizations proscribed on the mainland (Falun Gong and the Roman Catholic Church are proscribed there), allowed the Secretary for Security rather than the courts to set the rules for appealing such decisions, and precluded a public interest defense against a conviction for publishing state secrets. (On the mainland, almost anything can be a state secret.)

Proponents of the law argued that the proposed legislation was milder than British-era legislation and that one can find similar or even stronger provisions to some of these in the laws of certain Western democracies. They argued, and most people acknowledged, that the Hong Kong government clearly did not intend to target, for instance, the Catholic Church. However, the public saw the laws as unnecessarily stringent. They wanted to be able to rely on the law, not on the individuals running the government. They did not want the government to be able to circumvent the courts.

Such sentiments led to a demonstration by 500,000 people, one of the largest in Hong Kong history, on July 1, 2003; to withdrawal from the Executive Council of the leader (James Tien) of the principal big-business party (Liberal Party); to de-

¹¹The specific wording of Article 23 is: "The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies."

mands by the pro-Beijing DAB party to delay the legislation; and ultimately to withdrawal of the legislation because it lacked the votes to pass without Liberal Party support.

The demonstration and its aftermath were the lowest hour for the Hong Kong government and in some ways the finest hour of the broader Hong Kong political process. The government refused strong public demands for a White Paper that would allow detailed public scrutiny. It distorted the results of a required public consultation and thereby ensured maximum public distrust of its intentions.¹² Under pressure it made concessions, including three huge concessions after the July 1 demonstration, and its flexibility on substance would likely have been adequate to ensure passage, but it attempted to stampede passage of the bill in two days and in the process created so much distrust that no bill passed.

Culminating a series of lesser missteps, government mishandling of the Article 23 issue politicized a hitherto apolitical populace. This has become a fundamental turning point in Hong Kong's history.

Demonstrators against the bill, comprising a wide spectrum of Hong Kong society, behaved with fortitude and total discipline in the face of terrible heat and very long hours of marching. Notwithstanding the huge importance of the bill to Beijing and the fear in China of large demonstrations, the government refrained from invoking laws that could have been used to prohibit a demonstration far larger than the organizers requested and the government approved. Premier Wen Jiabao, who was in Hong Kong and neighboring Shenzhen, conducted himself with total professionalism and in particular eschewed threats. Hong Kong's Democrats kept their focus on the Article 23 issue and deferred (until New Year's Day) attempts to press a larger political agenda in ways that could have given hardliners in Beijing a pretext for some kind of repression. Subsequently the central government sent teams to Hong Kong for broad consultations, including with the Democrat Party. In short, each participant conducted itself in a way most likely to result in respectful dialogue and to minimize the risks of unnecessary confrontation.

Subsequently the central government followed through on forms of closer economic integration with Hong Kong that triggered a revival of the Hong Kong economy.

Hong Kong people reacted very positively to this situation. Polls in the autumn showed public trust in the central government to be substantially greater than trust in any of Hong Kong's own leaders. The situation appeared to be headed for a clear win-win between Hong Kong and China's central government.

Unfortunately that era of good feeling proved short-lived.

At the end of November, pro-democracy candidates won overwhelming in local Hong Kong elections. On January 1, 2004, a large demonstration (37,000 people according to the government, 100,000 according to the organizers) demanded direct elections of the chief executive and the legislature in 2007, as permitted but not required by the Basic Law. The demonstration was again orderly, peaceful, brief, and not antagonistic toward the central government.

The central government could have confidently expanded its consultation and regarded the demonstration as a disciplined way of requesting something that was, after all, an option opened by the central government itself when it wrote the Basic Law. Instead, lacking confidence, it responded to the series of demonstrations as a threat to stability.

Beijing turns repressive

The ominous aspects of the current situation began with a central government campaign, one that originated around October 2003 but became vigorous only later, to emphasize that the leaders of Hong Kong must be patriots, with the implication that supporters of democracy were not patriots. This was an inversion of Deng Xiaoping's insistence at the time of the agreement with Britain that, regardless of ideology, anyone who respected China, believed Hong Kong to be part of China, and would not damage Hong Kong's stability or prosperity was a patriot. Deng's formulation was generous; he welcomed capitalists and feudalists, in other words even anti-communists, as long as they met these criteria. The dicta of 2004, on the other hand, interpreted the requirement of patriotism in a seemingly narrow and ideological way—the opposite of Deng.

On April 6, 2004, the Standing Committee of the National Peoples Congress issued an "interpretation" of Hong Kong's Basic Law provisions on elections emphasizing the central government's right to approve changes. This provoked a pro-de-

¹²For instance, as noted in Christine Loh's newsletter of January 29, 2003, the government categorized the responses of the some of the organizations most emphatically opposed to the legislation as "unclear."

mocracy demonstration of about 15,000 people on April 11. On April 26, the Standing Committee specifically banned direct elections of the CE in 2007 and for the Legislative Council in 2008.

The Standing Committee had the legal right to take the action it did. Under the Basic Law the Standing Committee has the right to interpret the Basic Law (Article 158), the right to rule on anything that affects relations between Hong Kong and the central government (Article 17 paragraph 3, invoked in the explanation of the decision), and the right to interpret the clauses that open the door to direct elections after 2007 subject to gradualism and appropriate conditions.¹³ The important issue is not whether its decision was legal but whether it was wise.

On May 5, a Chinese naval flotilla sailed through Hong Kong harbor in a way that seemed clearly designed to intimidate. That period also saw suggestions of further restrictive interpretations of the Basic Law.

Three pro-democracy radio hosts have complained of seeming intimidation, and earlier the head of a campaign to stop reclamation of Hong Kong harbor resigned with similar complaints. If such incidents become a pattern, or if evidence emerges of central or local government involvement, or if the government does not vigorously pursue anyone who made threats, then the threat to Hong Kong's freedoms would be serious indeed. On these, we need more time and information before reaching judgments. On the other steps, the record is perfectly clear.

Why Beijing has reacted this way

Mr. Chairman, I believe it is important for us to understand why China's central government has taken this turn. To explain, however, is not to explain away, and I have absolutely no intention to explain away. The central government's new policies have created an atmosphere of anxiety and distress in Hong Kong.

In my view the policies were unwise, even if one considers only the central government's interests. The fear of instability was entirely misplaced. These orderly, brief demonstrations demonstrated extreme discipline and respect for the law. Although large, they were entirely consistent with Hong Kong's political culture and therefore not disruptive of the established system. They did not advocate political change in China proper or disorderly change in the Hong Kong government. They were not in any general way hostile to the central government. They advocated something that the Basic Law, which was written solely by the central government, explicitly allows as a possibility.

Moreover, even as general support for democracy has risen, the post-1997 period has seen the gradual fading rather than the rise of those democratic leaders whose goal was to organize change across the border in China or whose political strategy depended on provoking China. All the pro-democracy leaders have from the beginning supported the view that Hong Kong is part of China, and they have (with one notable exception outside the Democratic Party) generally supported the view that Taiwan is part of China. Hong Kong polls have shown high levels of admiration for central government leaders. In short, China's central government has had every reason to take satisfaction from the success of its policies in Hong Kong and every justification to act with confident generosity rather than fearful repression.

Why, then, the fearful, negative policies from Beijing?

Chinese leaders believed, and may continue to believe, that Hong Kong's discontents were economic and that amelioration of the deflation, high unemployment, and sluggish growth that plagued Hong Kong for several years would resolve tensions over things like Article 23 and the pace of democratization. Hence their primary policy response was to stimulate, quite successfully, economic recovery in Hong Kong. While it is certainly true that economic problems greatly exacerbated political discontents, the belief that political sentiments only reflected economic conditions was always as fallacious as the economic city theory. In China proper, privation was long so severe that drastic economic improvement could for several decades overwhelm the political agenda, but Hong Kong long ago left that era behind. Because central government leaders misread the discontents as purely economic, they were shocked and perceived bad faith when, following their successful economic measures, they got a big pro-democracy demonstration.

Chinese leaders also believe deeply in the power of good leadership and in their own ability to choose good leaders. They have considerable basis for that belief.

¹³ From Article 45: "The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee . . ." Article 158 begins by giving the Standing Committee a general power of interpretation of the Basic Law.

Macau's economy took off as soon as China replaced the lackluster Portuguese leadership, suppressed crime, encouraged investment in infrastructure, enhanced competition, and instilled a long-term economic vision. Edmund Ho has simply been outstanding. In China's principal cities, leaders like Zhu Rongji, installed from outside by the central government, have repeatedly created economic miracles and quelled much political dissatisfaction. But the political structures of these other cities bear more resemblance to the structural conditions of old British colonial Hong Kong than to Hong Kong's prosperous, pluralistic, gridlocked situation. Greater complexity, greater prosperity, and a Westernized political culture made Hong Kong different, and disillusionment with the current local leadership magnified these differences. Not understanding this, China's leaders have reacted with dismay and fear to demands for more sophisticated politics in Hong Kong.

When Tung Chee-hwa was chosen for his first term, polls showed that he inspired considerable popular trust. Anson Chan, then head of the civil service, scored highest, just under 70%, Tung Chee-hwa second, in the mid-50s, and Martin Lee was trusted as a potential leader by 11% of Hong Kong people. Hence the choice of Tung reflected a balance of acceptability to Hong Kong people and acceptability to the central government. When the Chief Executive's first term was ending, a substantial proportion of the city's leading conservative business leaders warned the central government that reappointment could bring serious trouble. Beijing's response was to admonish business leaders to rally the city around Mr. Tung, repeatedly citing an analogy to the way Americans rallied around George W. Bush despite his narrow election. The idea that they could do so reflected the economic city fallacy, by now an increasingly dangerous misreading of Hong Kong. The central government was surprised and shaken by its inability to get Hong Kong to accept the chosen leader.

Repeated demonstrations in Hong Kong raised consensus fears in Beijing of disorder and chaos in Hong Kong. While Deng Xiaoping might have been able to analyze the demonstrations in their Hong Kong context and understand that they were not threatening in the way similar demonstrations in China might be, the circumstances of the new leadership in Beijing made such a possibility far less likely.

Perhaps most importantly, the Hong Kong demonstrations occurred in the context of the efforts of Taiwan's President Chen to move toward independence.¹⁴ As the Taiwan elections approached, Chen's constantly reiterated statements that Taiwan was already sovereign and independent, his plan to revise the constitution, and his wedge-issue referendum had led to a widespread conviction in China, even among apolitical businesspeople and many liberal intellectuals, that war might be inevitable. President Bush's wise amelioration of that situation helped avoid conflict, but the tension and anxiety that accompany a war scare inevitably narrow leaders' perspectives on other issues.

In this context, China had new leaders whose hold on power would take years to consolidate. The greatest vulnerability of any Chinese leader is the potential accusation that he is permitting threats to the unity or stability of the nation, and new, untested leaders are exceptionally vulnerable to such charges from hardliners. The fate of predecessors like Zhao Ziyang ensures that no leader ever underestimates that vulnerability.

The new leaders had little direct knowledge of Hong Kong. They are not known in China as hardliners or advocates of greater repression. Quite the opposite. They have surrounded themselves with bright, young, reformists, many of whom are advocates of modestly democratizing reforms in China itself and avid, admiring students of democratization in other successful Asian countries. They have taken both symbolic and substantive steps to identify with the needs of common people and to, for instance, improve the lot of rural migrants. But their experience is in places like Gansu, not in Hong Kong, and this creates at least transitional risks.

At the risk of offending almost everybody in this room, I might recall that President Carter from Georgia initially thought that he might improve the lot of Koreans by withdrawing our troops from that threatened country, President Clinton from Arkansas initially thought it a good idea to curtail our most important trade ties with China, and the aides of President George W. Bush from Texas initially thought it useful to allow aides to characterize China publicly as a strategic competitor upon which we should re-focus much of our global military planning. In this context, one

¹⁴The link between Taiwan and Hong Kong developments is quite direct. The "one country two systems" concept was originally offered to Taiwan in September 1981 and only later applied to Hong Kong. Since then, Beijing has repeatedly said that the successful implementation of the concept in Hong Kong will eventually give credibility to the concept in Taiwan. In response, under Presidents Lee and Chen, Taipei has made an enormous effort to discredit the concept. Moreover, when the issue of national unity becomes sensitive in one place, it immediately becomes sensitive elsewhere.

might empathize somewhat with new Chinese leaders when they apparently thought of demonstrations in Hong Kong the way they might think about demonstrations at home. However, our system has repeatedly demonstrated the ability to bring leaders up to speed very rapidly, because of the institutionalized weight of expertise in our system. It remains to be seen whether China's system works equally well. Moreover, even if central government leaders get properly briefed, they have handcuffed their own wrists through the Standing Committee's ban on direct elections in 2007, which is now a law.

One reason often cited by observers for Beijing's conservative stance is concern that democratization in Hong Kong might prove infectious on the mainland. Perhaps this is a concern, but I have not heard any emphasis on that point. If that is the primary concern, it is strange that Premier Wen re-committed at the end of April to eventual universal Hong Kong suffrage.

There are two central confusions in current Chinese policy toward Hong Kong. The first is a confusion of Hong Kong with Taiwan. In Taiwan there is a large independence movement. In Hong Kong there is no such movement.

The second is a confusion of the democracy movement with a few prominent democracy advocates. The sentiment for democracy is wide and deep, encompassing a majority of Hong Kong people, many of whom identify to some substantial degree with China. The distrust of leaders who gratuitously provoke Beijing is equally strong. The current heads of the Democratic Party are not particularly anti-Beijing.

In short, Hong Kong is not Taiwan, and the democracy movement is not anti-Chinese. If China's central government were to act with confidence rather than fear, with detailed knowledge rather than vague analogies, and with generosity rather than threats, there would be no risk whatsoever of a separatist winning and negligible risk that victory would go to a China-baiter. Having lived in Hong Kong, my instinct is strongly that a central government decision to allow early universal suffrage would cement Hong Kong public loyalties to a degree that no other decision could match.

On the other hand, if the central government allows itself to be drawn into a vicious cycle of Beijing threats, Hong Kong demonstrations, bigger Beijing threats, bigger Hong Kong demonstrations, it just might create a separatist movement where none existed and it just might empower anti-Chinese leaders in Hong Kong. Beijing risks creating its own headache.

There is a further source of support for Beijing's threatening, repressive attitude and that is the allegation that the democracy movement is a creature of foreigners. On one level this is simply tiresome. All government leaders anywhere who get into difficulty are tempted to shift blame to foreigners. Anyone who experienced the ordinary housewives and students pouring into the streets to oppose the Article 23 legislation and later to support democracy would realize that no foreigner could stimulate such a thing. Anyone who knows Hong Kong people knows that they are highly educated and canny and can't be stampeded by some conspiracy.

Nonetheless, some important officials believe that foreigners are organizing the Hong Kong democracy movement. "Foreigners" or course means primarily ourselves. The evidence cited in China for this fallacious belief relates to our enthusiasm for Martin Lee, who although no longer the leader of the Democrat Party continues to be a frequent spokesman with foreigners because his English fluency is so much greater than his colleagues'. The fact that Martin Lee's global campaign was managed for such a long period by the American protégé of a prominent American political figure, the vitriolic campaign mounted in this country against the Hong Kong law prohibiting political contributions by foreign political parties, and the extraordinary reception during his recent visit, gave maximum leverage to hardline Chinese opponents of Hong Kong democracy. I was in Beijing at the time of Mr. Lee's visit here, and experts who were expressing concerns about the negative thrust of Chinese policy toward Hong Kong reacted with anguish and despair to what was seen as a major U.S. intervention in favor of an anti-China figure. They had no choice other than to go quiet for a while.

A principal argument being mounted by opponents of democratization inside Hong Kong also concerns ourselves. The Basic Law gives the central government a veto over any proposed Chief Executive and over the top level of Hong Kong officials. Democratic Party leaders say they will accept the veto if given the right of direct election. However, key opponents of direct elections are arguing that, if a candidate were directly elected and then vetoed, the U.S. would confront China over it. That, they argue, would be a great crisis that China cannot afford and therefore China should not run the risk of allowing direct elections. However, if the central government is generous toward Hong Kong's political aspirations, there would be little chance of Hong Kong electing a provocative figure. On our side, if we really care about democratization of Hong Kong, then acceptance of the veto, which the Demo-

cratic Party accepts and which has been there all along without our protest, would seem to be a minor price.

June 2004 turn toward rapprochement

Last summer all parties to the Hong Kong situation seemed moderate and constructive. This spring all parties seemed destructively confrontational—except the Hong Kong public. In June, there has been a pullback from confrontation. Democratic Party leaders, democratic activists like Lau Chin-shek, and civic leaders like Christine Loh led this shift, emphasizing loyal and orderly intentions. Chief Executive Tung Chee Hwa proclaimed his support of a group emphasizing Hong Kong’s “core values” of human rights, freedom, rule of law and democracy, and the Secretary for Constitutional Affairs wrote an op-ed article underlining that point. The central government indicated its intention to resume consultations with all parties. Hong Kong’s Chief Secretary Donald Tsang, the government’s most important official after the Chief Executive, said that eventual democracy was “inevitable.” Public opinion polls show disillusionment with confrontational attitudes on both sides.

These are auspicious developments. To retrieve the situation, however, much more will be needed. The demonstration on July 1 will have to be orderly. Democratic activists are talking about turning the demonstration into a “celebration” in order to show the central government their sincerity.

That puts the ball in Beijing’s court. The keys will be Beijing’s reactions to the upcoming July 1 demonstration/celebration and to what now seems likely to be a near-sweep by pro-democracy candidates of the September legislative Council elections. If Beijing reacts with threats and further restrictions on future democracy, the situation will polarize quickly. Even to stabilize the situation, Beijing will have to move from consultations to concrete compromises.

If Beijing wants real consultation and compromise, there is plenty of room. The committee that chooses the Chief Executive could be greatly broadened. The 30 functional constituencies could be greatly broadened. Beijing could proclaim a schedule for additional direct elections to replace some of the functional constituencies. A simple statement by a top leader that affirms appreciation for Hong Kong’s contributions to China and promises progress toward universal suffrage would markedly alter the tone of discussions.

Some principles for U.S. policy

When we react to actions by the Chinese central government that potentially damage Hong Kong, it is not in our interest to take measures that do additional damage.

Nothing will serve the enemies of Hong Kong democracy better than a situation where they can credibly paint the controversy as a Chinese-American confrontation rather than a negotiation with the citizens of Hong Kong.

Speaking out clearly and constructively may do some good. Chinese leaders need to focus on this before the central government paints itself a corner.

This is one of those frustrating situations where our positive leverage is limited and the risk of unintended collateral damage is high. I can offer you no assurances that if we play our hand well the outcome will be good. I can offer you considerable assurances that if we overplay our hand the outcome will be poor.

Perhaps the most frustrating thing for those here who would like to support democracy in Hong Kong is this: Democracy will come to Hong Kong only when the central government is comfortable with it. Fortunately such comfort is not a far-fetched scenario. Contrary to a widely held view in the West, Chinese leaders are not ideologically opposed to democracy in Hong Kong. The Basic Law, which explicitly sets the eventual goal of full suffrage, was written exclusively by the Chinese government. It was not a negotiated compromise with foreigners. President Jiang Zemin promised democracy at the 1997 handover. Premier Wen stated on April 28, 2004, three days after the disappointing Standing Committee ruling, that the goal is still universal suffrage for Hong Kong.¹⁵ Chinese leaders are nervous about change, and they scare easily when they see demonstrations, but they are not ideologically opposed to free elections in Hong Kong. They will go for whatever works, but they want to be shown step by step that it works.

What I have written about our options is no counsel of impotence or despair. On the one hand, if the central government messes up its relationship with Hong Kong, then, without any actions whatsoever on our part, the economic and political costs to China will be so great as to dwarf any imaginable sanctions by us. A return to

¹⁵ Cited in Zheng Yongnian and Tok Sow Keat, “Hong Kong Democratization: A Crisis Brewing for Beijing?” Background Brief, East Asian Institute, National University of Singapore, May 7, 2004, pp. 3, 13

dealing with Hong Kong through threats and flotillas would be the ultimate self-sanctioning policy.

On the other hand, an optimist can hope for progress because both Hong Kong and China have enormously intelligent people who want to avoid making a mess. At the moment, each party is again taking constructive steps and averting confrontation. Again, Mr. Chairman, I can offer no assurances that Beijing will proceed from proffered consultations to wise compromises, but so far June has been a good month and we would be wise to smile upon the constructive steps of all parties.

As Hong Kong confronts these controversies, it is worth remembering that the freedoms that have so far been preserved are precious. This small part of China remains a place of freedom of speech, freedom of the press, freedom of religion, freedom of movement, freedom of demonstration, British law, capitalism, and one of the world's largest trading powers. It is not a democracy, but it is a free society with gradually increasing elements of democracy that never existed until China demanded Hong Kong back. Who could have imagined in October of 1982 that this would be the outcome of China's demand for return of Hong Kong?

Mr. LEACH. I want to thank you for that very thoughtful testimony.

Mr. Manikas.

**STATEMENT OF PETER M. MANIKAS, SENIOR ASSOCIATE AND
DIRECTOR OF ASIA PROGRAMS; NATIONAL DEMOCRATIC IN-
STITUTE FOR INTERNATIONAL AFFAIRS**

Mr. MANIKAS. Thank you very much, Mr. Chairman. Because Dr. Overholt provided such a good backdrop, I think, to the current political situation—

Mr. LEACH. Can you hold on for 1 second? Why don't you bring the microphone a little bit closer? I apologize, we just apparently have one today.

Mr. MANIKAS. That is quite all right. Can you hear me?

Mr. LEACH. Yes.

Mr. MANIKAS. Because Dr. Overholt provided such a good backdrop to the current political situation in Hong Kong I will not only summarize my written testimony, but I will also summarize my oral testimony. There is so much of what Dr. Overholt said with which I agree, but I would like to highlight a few other points.

Well, there doesn't really seem to be a dispute over whether or not eventually universal suffrage could occur; there is certainly a dispute over the pace of democratic development in Hong Kong. And it is becoming an increasingly tense and acute dispute.

A lot of people are expressing discontent over the pace of democratization, and a recent poll in Hong Kong showed that 52 percent of the people of Hong Kong were dissatisfied with the pace of democratization. Again, although there is no time line, there is certainly an expectation—there was an expectation, until the recent decision of the Standing Committee—that the Chief Executive could be elected by 2007 and the legislature by 2008. Clearly those expectations no longer exist after the Standing Committee's decision. But nevertheless, I think people still want to move forward and do what they can to expedite the democratization process.

In addition to that debate over the pace of democratization, recent events surrounding the election, I think, require a certain degree of attention. The area of concern is not just democratization but it is also the nature of what is going on specific to the upcoming legislative elections.

One area of particular concern is freedom of expression. In recent weeks, we have seen the intimidation of public figures who have

expressed their political opinions in Hong Kong's news media. And in at least three cases, radio talk show hosts have resigned because of political harassment. There have also been reports of pro-democracy legislators being intimidated.

This is important, I think, because never before in Hong Kong has the integrity of the electoral process ever been questioned. But election-related misconduct is becoming an issue in the current context. There have even been reports of voter intimidation and false voter registration. The Hong Kong Human Rights Monitor has called for international monitors to observe the September elections.

Hong Kong officials, I think, have actually responded pretty well to this, and they have called for an end to any conduct that threatens democratic practices. But it is nevertheless important for the international community to follow this situation pretty carefully.

In regard to the future of democratic development in Hong Kong, there is one ongoing process now. The Hong Kong government-sponsored public consultation process that I think holds some promise. These consultations are a series of public forums that are being conducted now, and they are going to continue until August 31st. Their purpose is to solicit public comment under various reform issues such as the composition of the legislative council and the 800-member election committee that selects the Chief Executive.

The consultation process is now providing an opportunity for public participation and representation in government. Whether these consultations will be effective is still an open question.

One of the criticisms has been that the public appearing at public forums has been permitted to speak only very briefly, and sometimes only for 3 minutes. But nevertheless, it is a step in the right direction, and it holds some promise.

Some pro-democracy advocates, particularly the party leaders, have chosen to participate in that consultation process, but others have not. The reality is that in Hong Kong the pro-democracy forces, are not really unified in their approach to political change. Many of them now—and it has certainly become apparent over recent weeks—are reaching out to mainland Chinese officials. And in response, Chief Executive Tung Chee Hwa is starting a series of meetings with pro-democracy advocates which is supposed to commence on June 17th and last over a number of weeks. A lot of these pro-democracy advocates, certainly the people that we have been working with closely, are somewhat optimistic, I think, about this, and they want it to lead to direct dialogue with the central government.

Reconciliation, I think, is really very important to the people that we have been working with. They all understand that this is only going to evolve in a positive way if there can be some accommodation made to the concerns of the central government in Beijing. They want that reconciliation to take place, and that is their real challenge. They have to find a way to have that reconciliation while still accelerating the pace of democratization and keeping to a timetable that—while it may not be 2007 and 2008—will at least not be 30 years away.

Thank you very much, Mr. Chairman, and I am glad to answer any questions when the panel is completed. Thank you.
[The prepared statement of Mr. Manikas follows:]

PREPARED STATEMENT OF PETER M. MANIKAS, SENIOR ASSOCIATE AND DIRECTOR OF ASIA PROGRAMS; NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

INTRODUCTION

I would like to thank the House International Relations Committee, Subcommittee on Asia and the Pacific for inviting me to testify today. NDI has been operating in Hong Kong since 1997. We have issued periodic reports on political developments and we have worked with all of Hong Kong's political parties in helping them develop the capacity to operate in a competitive electoral environment.

This hearing is timely, as we approach the one-year anniversary of Hong Kong's massive July 1, 2003 rally which generated considerable enthusiasm for democratization.

Polls indicate that Hong Kong people are increasingly dissatisfied with the pace of democratic development. The percentage of dissatisfied people has steadily grown over the last eight months. In October of last year, Hong Kong University's ("HKU") Public Opinion Programme ("POP") conducted a poll which showed 42.2% of respondents were dissatisfied while 22.4% were satisfied with the pace of democratic development in Hong Kong. A follow-up poll in January of this year showed 46.7% dissatisfaction versus 20.1% satisfaction. And the dissatisfaction figures continue to rise while the percentage of satisfied people remains relatively stable. Results from HKU POP's recent poll in April show that 51.8% of respondents are dissatisfied with the pace of democratic development in Hong Kong while only 21.7% are satisfied.

The Basic Law, Hong Kong's "mini-constitution," does not provide a time frame for universal suffrage. What it states is that universal suffrage is the "ultimate aim" of the Basic Law. Article 45 of the Basic Law states, "The ultimate aim is the selection of the Chief Executive by universal suffrage." Article 68 contains similar language for electing members of the Legislative Council ("LegCo"). Many pro-democracy advocates hoped that following the ten-year transition period laid out in the Basic Law, universal suffrage would apply to the 2007 Chief Executive election and to the 2008 LegCo election for all LegCo seats.

This hope faded when, on April 26, 2004, after months of unofficial statements, the Standing Committee of the National People's Congress ("SCNPC") issued an interpretation on the Basic Law, making three points. First, the SCNPC interpretation ruled out the application of universal suffrage for the 2007 Chief Executive election. Second, the SCNPC also ruled out universal suffrage for electing all members of the LegCo in the 2008 election. Third, the interpretation declares that the LegCo's one-to-one ratio of functional constituency representatives (who are not elected through direct general elections) to directly elected legislators must remain intact. The SCNPC's statement reiterates that the "final goal" of the current process is selecting the Chief Executive (after nomination by a nominating committee) and LegCo members through general elections. As in the Basic Law, no timeline is attached to this goal. The prospects for when Hong Kong will enjoy universal suffrage are therefore uncertain.

"POST-REVERSION" ELECTION FRAMEWORK

Currently, candidates for Hong Kong's Chief Executive position are selected and voted on by an 800-member Election Committee composed of prominent citizens from four sectors which represent industry and business; professional groups; social services and labor; and government. Each sector has 200 Committee members. Corporations in their respective sectors elect members to the Election Committee. This system for electing the Chief Executive is laid out in Annex I of the Basic Law, and will continue to be in effect for the 2007 Chief Executive election, as the SCNPC decreed in its April 26 interpretation. Therefore, the region's political and economic elites will retain control of the process for electing Hong Kong's top post ten years after the reversion to Chinese sovereignty.

Annex II of the Basic Law establishes the electoral framework for the upcoming September 2004 LegCo election. In accordance with the Basic Law, 30 of 60 legislators will be directly elected in this year's LegCo election (an increase from 24 in the last election), while the other 30 seats are reserved for representatives of functional constituencies. Functional constituencies are composed of individuals and corporate bodies representing various business and professional groups, such as financial serv-

ices, agriculture and fisheries, labor, health services, information technology, textiles and the garment industry. They represent powerful business and industrial sectors in Hong Kong. By setting aside half of the LegCo seats for these groups, representation of their interests is guaranteed in the Hong Kong government. As a result, these various business and industry sectors are particularly influential in the territory's governance. While the September LegCo election is the last to be covered by the Basic Law in its current form, the SCNPC has officially rejected the possibility of universal suffrage for all LegCo positions in the 2008 election, requiring functional constituency representatives to maintain half the seats in the LegCo for the term starting in 2008.

INTERPRETING THE BASIC LAW

The interpretation of the Basic Law by the SCNPC has raised concerns regarding process and jurisdictional scope. On April 15, Chief Executive Tung Chee-hwa reported his assessment of Hong Kong's constitutional reform needs to the SCNPC, particularly whether to amend the Basic Law on methods for selecting the Chief Executive in 2007 and the LegCo in 2008. Tung outlined nine conditions for electoral reform. However, this report was not expected until later in April, leaving many people surprised by its premature release. With the announcement of his report, Tung bypassed the Hong Kong government's own Taskforce on constitutional reform. The SCNPC then issued its interpretation in response to Tung's report.

In addition, Article 2 of the Basic Law states, "The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law." The Article 45 Concern Group, a group of prominent Hong Kong lawyers, issued a report on April 21 asserting that the SCNPC's decisions regarding the procedures for the 2007 Chief Executive election and the 2008 LegCo election were beyond its scope of power as afforded by the Basic Law. They contend that the SCNPC's power is to determine whether there is a need to amend the election methods, not to determine the actual methodology and timing. Article 17 of the Basic Law states that the SCNPC "may return the law in question but shall not amend it." In their report, the Article 45 Concern Group argues, "[W]hat the Standing Committee is required to determine is simply *whether* there is a need to amend the method for selecting the Chief Executive or for forming the Legislative Council, not anything else and in particular not *what* amendments to make or not to make."

Articles 45 and 68, in describing the methods of selecting the Chief Executive and forming the LegCo respectively, both say the methods "shall be specified in light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress," with the ultimate aim to be universal suffrage in both cases. It is this provision in both articles of the Basic Law that the SCNPC highlights in its April 26 interpretation as the guiding rationale for its decision to not allow universal suffrage in the 2007 and 2008 elections. The SCNPC proclaims in its interpretation, "[V]arious social circles in Hong Kong currently still have considerable differences about methods for selecting the Chief Executive and for forming the Legislative Council after 2007, and no broad consensus has been reached yet. Under such circumstances, conditions do not satisfy the general election of the Chief Executive . . . and the general election of all Legislative Council members."

However, the Article 45 Concern Group maintains that Annexes I and II of the Basic Law, which outline the election methods for the Chief Executive and LegCo during the ten-year transition period, do not give the SCNPC power to specifically decide the election methods subsequent to the year 2007. Both annexes state that subsequent to 2007, amendments to the methods for electing the Chief Executive and forming the LegCo must be made within the Hong Kong Special Administrative Region, with the endorsement of a two-thirds majority of all the LegCo members and the consent of the Chief Executive, and then reported to the SCNPC. In the case of changing the election method for the Chief Executive, the SCNPC's power is limited to approving the amendment. In the case of changing the formation method of the LegCo, the amendment is to be reported to the SCNPC for the record.

PRE-ELECTION ENVIRONMENT

Public concerns are not limited to election-related matters, but also extend to other areas of democratic development as the LegCo election approaches. There is growing evidence, for example, that the space in which pro-democracy advocates can operate is shrinking.

One area of particular concern is freedom of expression. Most recently, Anson Chan, Hong Kong's highly respected former Chief Secretary, was criticized for an article she wrote for the June 14, 2004 issue of TIME Asia magazine, in which she expresses concerns about the state of affairs in Hong Kong. Other examples that draw attention to questions of freedom of expression, and may also involve press freedom issues, were the sudden departures in quick succession of three popular radio talk-show hosts in May. Outspoken pro-democracy radio talk show hosts Albert Cheng and Raymond Wong resigned from their respective shows after being victims of repeated harassment. Albert Cheng's replacement, Allen Lee, also resigned. Lee is the former chairman of the Liberal Party who, in subsequent years to resigning as chair, became an outspoken democracy supporter as a Hong Kong Deputy to the NPC.

There have also been reports of pro-democracy legislators being threatened, detailing increased incidents of harassment, vandalism, and personal physical attacks. Reports of harassment and violence towards public figures such as media personalities and legislators call into question security for not only these individuals, but also raises concerns for voters during the LegCo election in September. Election tampering has never been a significant concern in previous years, but it is becoming an issue as the elections approach. Rumors of voter intimidation began in mid-May and are continuing. Furthermore, reports have surfaced of false voter registration submissions, with some people already arrested for falsely registering voters. In light of these reports, the Hong Kong Human Rights Monitor has called upon international monitors to observe the September LegCo election. However, Hong Kong's Electoral Affairs Commission ("EAC") asserts that, as an independent and apolitical body, it is capable of organizing, supervising, and monitoring Hong Kong's elections.

Another sign that the space for Hong Kong's liberal voices is constricting is that, in recent months, some businesses have withdrawn advertisements from one of Hong Kong's most liberal newspapers, the Apple Daily. Though various government representatives, including Chief Executive Tung Chee-hwa, have called for an end to practices that threaten democratic practices, it will be important for the international community to follow the evolving situation. It is especially pertinent since signs have emerged recently that the controversial Article 23 security legislation may be put back on the table in the near future.

LOOKING FORWARD

What is the future for democratic development in Hong Kong? One hopeful mechanism is the current Hong Kong government-sponsored public consultation on constitutional reform, which is now open and will remain so until August 31. "Constitutional reform" refers to the process of examining the Basic Law and determining what structural changes to governance might be made both within the constraints of the "mini-constitution" and outside of it. The consultation will address the make up of the 800 member Election Committee, such as a potential membership increase, and changes to the election sub-sectors and electoral base. It will also address the LegCo's composition, such as an increase in the total number of seats, changing the electoral base of Functional Constituency seats, as well as rules for foreign nationals running for election. The possibility for these changes in the compositions and sizes of the Election Committee and the LegCo provides one area for potentially greater public participation and representation in government.

Some pro-democracy advocates and party leaders have chosen to join the consultation process, while others will not take part. The reality is that Hong Kong's pro-democracy forces are not unified in their approach to political change. For example, a group of 294 prominent pro-democracy academics and professionals started a campaign called the "Hong Kong Core Values Declaration" that they took to Chief Executive Tung Chee-hwa, which he endorsed. Dr. Alex Chan, Secretary of SynergyNet, a Hong Kong-based public policy think-tank, and a prominent academic who is also one of the 294 signatories of the Declaration, explains the campaign "as an attempt to bring a new and broader angle of thinking about the challenge that Hong Kong people are facing at this critical point of time, what constituted Hong Kong's success in the past, and what we need to defend today so that Hong Kong can continue to thrive in future."

Other groups are reaching out to Mainland Chinese officials with conciliatory overtures. Pro-democracy advocates have offered to improve relations with the central government by toning down their rhetoric. In response, Chief Executive Tung Chee-hwa started a series of meetings with democrats on June 17, to last over a number of weeks. In a June 17 meeting with a veteran pro-democracy lawmaker, Tung promised to push for talks between Beijing and Hong Kong's pro-democracy advocates, and to urge Beijing to allow pro-democracy advocates to travel to the

mainland. Currently, many of Hong Kong's pro-democracy advocates are not able to receive official permission to travel to the mainland. Some advocates hope that these talks will lead to direct dialogue between the democrats and Beijing leaders. Political observers are cautiously optimistic about these developments, as it will take some time to ascertain the actual effects of these efforts and see whether a future reconciliation can be realized.

Regarding the future of universal suffrage in Hong Kong, polls indicate that the majority of people still support general direct elections for the 2007 Chief Executive and 2008 LegCo elections. An HKU-POP mid-May poll showed 66% support for a general election of all LegCo members in 2008, down from 82.8% support last July. The same poll also showed 54.7% support universal suffrage for the 2007 Chief Executive election, down from 81.6% last July. While Hong Kong people no longer expect to have universal suffrage in 2007 and 2008, they are willing to work on the constitutional reforms still available to them while hoping to preserve the rule of law and civil liberties. Furthermore, there are prominent people in Hong Kong who are focusing on universal suffrage in 2012 and governance reforms that would address some of the underlying issues of poor performance by the administration, including the Chief Executive's cabinet system and various public consultation mechanisms.

The September elections will be important to Hong Kong's political development, as the number of directly elected legislators will increase from 24 to 30. The polls have the potential to send a clear message about the public's support for advancing democracy or embracing the status quo.

The July 1 rally turnout and the September LegCo election results will be interesting indicators for popular thinking on Hong Kong's state of affairs beyond the political and economic elite whose actions the press constantly report. The international community should maintain an interest in Hong Kong's political development, as the region's future for democracy remains in question while the "one country, two systems" paradigm evolves.

NDI Programs in Hong Kong

Since 1997, NDI has been conducting a series of study missions to Hong Kong to consider the development of the Hong Kong SAR's "post-reversion" election framework, the status of autonomy, rule of law and civil liberties under Chinese sovereignty, and the prospects for democratization beyond the 10-year transition period set forth in the Basic Law. As part of this program, NDI has met extensively with Hong Kong government officials, political party leaders, election administrators, community and human rights activists, legal and academic experts and representatives of the business community.

NDI has published an ongoing series, entitled "The Promise of Democratization in Hong Kong," that assesses the prospects for the development of a democratic electoral framework and identifies the obstacles that impede full democratization in Hong Kong. In October 2002, NDI collaborated with a Hong Kong-based think tank to produce a comprehensive joint publication on the Accountability System and its implications for democratization in Hong Kong. The report assessed what the Accountability System means for executive-led government in Hong Kong, concluding with recommendations for a best practice ministerial model in the HKSAR.

NDI works with political parties and civil society organizations to encourage public discussion and debate on political reform. The Institute shares information with and provides technical assistance to Hong Kong political parties and civil society organizations seeking to increase their ability to increase citizen participation in the SAR's political life.

In 2002 NDI began helping Hong Kong's political parties, which have little experience in electoral politics, by conducting two multi-party workshops that, for the first time, brought together all of the Hong Kong SAR's major parties to discuss the political environment and the internal structure of the parties.

NDI expanded its efforts in February 2003. The Institute provided direct technical assistance through individual consultations with party leadership and training workshops for party members and staff. The programs included half-day consultations on party strategy and full-day skills training workshops that ranged from public speaking to message development to fundraising based on the expressed needs of the particular group. NDI has held several follow-up rounds of political party consultations and workshops to help the parties prepare for District Council election that took place in 2003 and the upcoming Legislative Council election this September.

In June 2003, NDI began to support the work of SynergyNet, a Hong Kong-based public policy think tank, to conduct a Hong Kong governance review project. The project combined extensive research and a forum to both determine and publicize

the views of Hong Kong residents and legislators towards several aspects of governance in the HKSAR. Also, NDI initiated work with Hong Kong University's Political Opinion Programme (POP) in early 2004 to assist Hong Kong's political parties in determining public perceptions about them.

ADDENDUM I

Legislative Council: Changes in Composition

Term Beginning	Total Members	Members Elected by Election Committee	Members Elected by Functional Constituencies	Members Elected by Direct General Elections
1998	60	10	30	20
2000	60	6	30	24
2004	60	–	30	30
2008	60	–	30	30

Mr. LEACH. Thank you Mr. Manikas. If you could pass that down to Ms. Hung. And let me say that the microphone is principally for the recorder, so if I can ask you to speak up, it would be helpful.
Ms. Hung.

**STATEMENT OF VERON HUNG, JSD, PH.D., ASSOCIATE,
CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE**

Ms. HUNG. Thank you.

Today I will focus on two issues, first the prospects of democratization in Hong Kong beyond the 10-year transition period set forth in the Basic Law. Second, whether the United States should change its policies toward Hong Kong. For my discussion of recent developments in Hong Kong and their impact, please refer to my written testimony.

The first is, prospects of democratization in Hong Kong. After Beijing made the decision on April 26th to rule out universal suffrage in 2007 and 2008, it is clear that the earliest possible time to have universal suffrage in Hong Kong is 2012. But, according to the April 26th decision, methods for electing the Chief Executive in 2007 and legislators in 2008 could be more democratic than the current mechanism. The prospects of having universal suffrage in Hong Kong in the near future and the degree of democracy the city can enjoy in years 2007 and 2008 will hinge on whether Chinese leaders can dispel the fear of democratic development in Hong Kong.

The Chinese Communist Party fears that democratization in Hong Kong will affect the Party's control over Hong Kong and would have spill-over effects in China. Beijing's fear is so enormous that it blurs Chinese leaders' vision, causing them to take measures that are disproportionate to the actual situation in Hong Kong.

Take the April 26th decision as an example. Before it was made, polls already showed that the public support for universal suffrage in the year 2007 and 2008 had already dropped from over 80 percent last July to about 50 percent. More and more Hong Kong people have faced the political reality that Beijing would not approve full democracy in the near future.

Beijing should be pleased to see this change in Hong Kong and could very well have decided to leave the entire matter to the city, because given such changing attitudes in society, it would be extremely unlikely that any "universal suffrage by 2007" proposal could win the votes of $\frac{2}{3}$ of Hong Kong legislators. Even if this might happen, the proposal could not be ultimately adopted without meeting two other legal requirements; that is, approval by Chief Executive Tung Chee Hwa, Beijing's man, and by Beijing itself.

To dispel Chinese leaders' fear of democratic development in Hong Kong, pro-democracy advocates in the city must establish a dialogue with Beijing to work out their differences as soon as possible. Developments over the past 10 days have been very encouraging. Both Beijing and democrats have softened their tone and expressed interest in meeting with each other.

Last Friday, a successful meeting between democrats and Mr. Tung Chee Hwa as well as Mr. Tung's unconditional pledge to help some democrats regain access to the mainland marked significant progress. In fact, a few hours ago, the Hong Kong legislature just passed a motion tabled by Mr. Martin Lee, former Chairman of the Democratic Party in Hong Kong, which urged Hong Kong people to work with the central government to ensure the successful of "one country, two systems" in Hong Kong.

This shows that these steps might pave the way for constructive dialogue between the pro-democracy camp and Beijing. Such dialogue would help them develop mutual trust, which is crucial for democratization of Hong Kong and successful implementation of the "one country, two systems" principle.

The next issue I want to address is United States policy toward Hong Kong. Recent developments in Hong Kong have led some critics to suggest that the President should exercise his power under the U.S.-Hong Kong Policy Act to change the United States policy toward Hong Kong. According to the act, if the President, after consulting with the Congress, finds that Hong Kong is not sufficiently autonomous to justify the special treatment it enjoys under the act, the President may issue an Executive Order to suspend any of these treatments. In my opinion, even as a person from Hong Kong, I urge and I would suggest that the United States should not take this step, for four reasons.

First, it is premature to find that Hong Kong is not sufficiently autonomous. Although recent developments such as the interpretation of the Basic Law and the April 26th ruling have raised grave concerns about the implementation of "one country, two systems," there is no solid evidence to show that they have negated the high degree of autonomy exemplified in many other aspects of government in Hong Kong.

In the recent U.S.-Hong Kong Policy Act Report, the State Department assesses developments in Hong Kong from last April to the time before the Basic Law was interpreted. The State Department rates highly the implementation of "one country, two systems" in Hong Kong.

Moreover, the interpretation of the Basic Law and April 26th ruling were mainly made as a result of Beijing's misjudgment of the actual situation in Hong Kong. They do not necessarily show Bei-

ing's intent to breach its promise of implementing "one country, two systems" in Hong Kong. Had Beijing had such intent, it could have done so earlier. Instead, the first 6½ post-reversion years saw Hong Kong maintain a high degree of autonomy. And this achievement was widely recognized by the international community, including the United States.

Beijing's judgment of the actual situation in Hong Kong would improve after its meeting with democrats in Hong Kong. The United States should welcome this progress and must not change its stance prematurely.

My second reason, any changes would undermine Hong Kong confidence and prosperity. Some supporters of Hong Kong suggest that changes in the United States policy will have no punitive impact on Hong Kong but will merely serve as a clear message to China that the United States has given up hope of "one country, two systems." This argument is flawed.

Such a message will go beyond Chinese leaders to reach foreign investors. The message itself will severely damage Hong Kong's confidence and prosperity, which the United States pledges in the Hong Kong Policy Act to play an active role in maintaining. Hong Kong people need encouragement, but not punishment.

The third reason, any changes could hinder United States efforts in promoting political and legal reform in China. The United States Government and NGOs have actively supported political and legal reforms in programs in China. Any changes to United States policy toward Hong Kong could escalate U.S.-China tensions. This would make a resumption of the U.S.-China human rights dialogue more unlikely and would also provoke China to terminate other technical assistance projects jointly organized by Americans and Chinese.

The final reason, any changes could damage the economic interests of the United States in Hong Kong and the country's security interests in Asia. Changes in the U.S.-Hong Kong policy could affect American businesses operating in and with Hong Kong. Hong Kong is ranked second among the top 10 countries or cities with which the United States has a trade surplus. More than 1,100 American firms operate in Hong Kong with more than \$38 billion invested.

Any changes to United States policy toward Hong Kong could also undermine the security interests of the United States in Asia. These changes might breed anti-American sentiment in Hong Kong and mainland China. This could weaken Beijing's interest in employing more political and economic leverage to persuade North Korea to dismantle its nuclear weapons and ballistic missile programs.

For these four reasons, I urge Congress not to consider any changes to the United States policy toward Hong Kong as authorized under the U.S.-Hong Kong Policy Act. Thank you very much.

[The prepared statement of Ms. Hung follows:]

PREPARED STATEMENT OF VERON HUNG, JSD, PH.D., ASSOCIATE, CARNEGIE
ENDOWMENT FOR INTERNATIONAL PEACE

SUMMARY

In the seventh year after Hong Kong's reversion to China, the former British colony experienced several challenges that have generated widespread concerns regard-

ing the implementation of “one country, two systems”. Yet, recent steps taken by Beijing and pro-democracy advocates in Hong Kong show their strong interest in developing constructive dialogue to mend their differences. Such dialogue would help develop mutual trust, which is crucial for democratic development in Hong Kong and the successful implementation of the “one country, two systems” principle.

The United States should welcome this progress. Any changes to the U.S. policy towards Hong Kong as stated under the U.S.-Hong Kong Policy Act are, therefore, premature. In addition, they could undermine Hong Kong’s confidence and prosperity that the United States has committed to play an active role in maintaining, hinder the U.S. efforts in promoting political and legal reforms in China, and damage the economic interests of the United States in Hong Kong and the country’s security interests in Asia.

INTRODUCTION

During the first few months of the seventh year after Hong Kong’s reversion, Beijing, to the great relief of Hong Kong’s population and to the satisfaction of the international community, did not respond negatively to last July’s 500,000-strong protest. Polls taken after the protest demonstrate that over 80 percent of respondents called for universal suffrage of Hong Kong’s chief executive in 2007 and all legislators in 2008, the earliest allowed under the Basic Law, Hong Kong’s mini-constitution. Believing that such strong demand for universal suffrage was fueled primarily by public dissatisfaction with Hong Kong’s economic difficulties, Beijing facilitated economic growth by allowing more mainland Chinese to visit the city and granting Hong Kong businesses special trade benefits. Hong Kong’s economy quickly revived. The population’s confidence in the central government grew.

This rosy picture turned bleak in the remaining months. The landslide victory of pro-democracy candidates in district level elections held in November 2003 and an unexpectedly large demonstration of almost 100,000 on New Year’s Day made Beijing realize that economic recovery did not dampen the public’s desire for universal suffrage. The central government shifted to take a heavy-handed approach to handle the situation. The following months saw Hong Kong evolve through a series of challenges that has aroused widespread concerns about the implementation of “one country, two systems”.

This testimony highlights these challenges and their impact on the implementation of the “one country, two systems” principle in Hong Kong, analyzes the prospects of democratization beyond the 10-year transition period set forth in the Basic Law, and discusses whether the United States should change its policies towards Hong Kong.

I. Challenges and Their Impact

Hong Kong experienced three major challenges during the last few months of the seventh post-handover year.

A. The Interpretation of the Basic Law

In early April 2004, the Standing Committee of China’s National People’s Congress (“NPC”) interpreted two provisions of the Basic Law’s annexes. One provision—paragraph 7 of Annex I—concerns the electoral method of Hong Kong’s chief executive. It states that “if there is a need” to amend the electoral method of the chief executives for the terms “subsequent to the year 2007”, any amendment must be made with the endorsement of a two-thirds majority of Hong Kong’s legislature and consent of the chief executive. The amendment must also be reported to the Standing Committee of the NPC “for approval.” The other provision—part III of Annex II—concerns the electoral method of Hong Kong’s legislators and uses similar expressions except that any amendment to the electoral method must be reported to the NPC Standing Committee “for the record.”

Before the interpretation was issued, the phrases “subsequent to the year 2007”, “for the record”, and “if there is a need” had generated heated debates. Pro-democracy advocates, the Hong Kong government and two mainland drafters of the Basic Law opined that “subsequent to the year 2007” includes year 2007, but some mainland experts and pro-Beijing figures in Hong Kong disagreed. The NPC Standing Committee decided that the phrase includes year 2007. This interpretation is welcome.

As regards the phrase “for the record”, there was an opinion that the Basic Law itself provides a clear answer. Article 17(2) states that all laws—which, pro-democracy advocates argued, include electoral laws—enacted by Hong Kong’s legislature must be reported to the NPC Standing Committee “for the record” and that “the reporting for record shall not affect the entry into force of such laws.” However, according to Article 17(3), the Standing Committee can reject any law passed by Hong

Kong if it violates those provisions of the Basic Law concerning affairs within the responsibility of the central government or the relationship between the central government and Hong Kong. Any rejected laws shall immediately become invalid but the invalidation shall not have retroactive effect, unless stated otherwise in Hong Kong's laws.

This opinion was wrong, according to Qiao Xiaoyang, Deputy Secretary-General of the NPC Standing Committee, who was responsible for answering questions concerning the interpretation of the Basic Law. Mr. Qiao stated that Article 17 addresses the issue of reporting Hong Kong's local laws as a matter of record but part III of Annex II concerns "legislation on the constitutional level" and, therefore, "reporting as a matter of record here is different from reporting as a matter of record in Article 17." In other words, Mr. Qiao continued,

"the entire amendment process [provided under part III of Annex II] will take effect only after it has been reported to the NPC Standing Committee as a matter of record in accordance with the law. This interpretation fully shows that the central authorities have the power to decide on the development of Hong Kong's political structure from beginning to end. This conforms to the Basic Law."

The absence of a subject in the phrase "if there is a need" sparked some controversies about who has the power to decide whether a need exists. The pro-democracy force in Hong Kong suggested that the absence of a subject in the phrase meant that an amendment to the method for electing the chief executive or legislators could be initiated in Hong Kong and should, if endorsed by two-thirds of all the members of the local legislature and approved by the chief executive, be passed on to Beijing "for approval" or "for the record." Perceiving such interpretation as denying the central government's power to decide on the development of Hong Kong's political structure, the NPC Standing Committee interpreted the phrase "if there is a need" to mean that Hong Kong's chief executive must submit a report to the Standing Committee if an amendment is needed, and the Standing Committee shall decide whether or not there is indeed such a need. Mr. Qiao explained that as the chief executive represents the entire city, his report "should represent the views of various circles, sectors, and strata in Hong Kong."

Responses to Beijing's interpretation of the Basic Law were mixed. Some legal experts found it "a mild interpretation" and necessary for clarifying the above ambiguities. Others, while acknowledging Beijing's power to interpret the Basic Law, argued that Beijing should use this power sparingly and cautiously and the interpretation was unnecessary and put "one country, two systems" and Hong Kong's high degree of autonomy at risk. Public confidence in the central government and Hong Kong government plummeted. Only 50 percent of 1,022 respondents in a poll taken after the incident said that they had confidence in the "one country, two systems" concept, compared to 57 percent recorded in an earlier poll. The percentages of respondents who said they had trust in the central government and in the Hong Kong government were 38 percent and 28 percent respectively, comparing to 43 percent and 34 percent in a previous poll.

B. The April 26 Decision

Following the interpretation of the Basic Law, Chief Executive Tung Chee-hwa submitted a report to the NPC Standing Committee. He recommended changes to the method for electing the chief executive and legislators in and after 2007, but also listed stringent conditions for such a change.

On April 26, 2004, the NPC Standing Committee adopted a decision to rule out universal suffrage of Hong Kong's leader in 2007 and all legislators in 2008. It also ruled that the ratio of legislators directly elected by geographical constituencies to those elected by professional and business groups called functional constituencies shall remain to be one to one. Yet, the Standing Committee decided that other changes to existing electoral methods are possible so long as they are consistent with the principle of proceeding in a "gradual and orderly" manner, as laid down in the Basic Law. Current Chief Executive Tung Chee-hwa was chosen by an 800-member committee. In September 2004, half of 60 legislators will be directly elected, while the other half will be returned by functional constituencies.

Beijing said that the April 26 decision marked a "new starting point", not the end, of democratic development in Hong Kong. Critics were furious and some called it "a naked use of power with no legal basis." The media lamented April 26, 2004 as "a sad day for China."

C. *The Resignation of Three Talk-Show Hosts*

In May, three outspoken radio talk-show hosts resigned, alleging explicitly or implicitly that Beijing pressured or threatened them to quit. Although the evidence is elusive, six out of 10 people surveyed believed that political pressure had induced these broadcasters' resignations.

Overall, these three incidents have presented challenges to the autonomy, rule of law, and civil liberties in Hong Kong. Worries about erosion of these values have mounted. Public confidence in the implementation of "one country, two systems" has dropped. In a poll, two-thirds of the respondents said that the political atmosphere was worsening. Over half opined that the central government was overly involved in Hong Kong. More than 200 professionals and scholars signed a statement, declaring that they were "greatly disturbed" by the increasing erosion of Hong Kong's core values, which, according to their definition, include, *inter alia*, human rights, the rule of law, and the upholding of professionalism.

II. *Prospects of Democratization beyond the Ten-Year Transitional Period*

The April 26 decision makes it clear that the earliest possible time to have universal suffrage of Hong Kong's Chief Executive and all legislators is 2012. Nevertheless, methods for electing the Chief Executive in 2007 and legislators in 2008 could be more democratic than the current mechanism. The prospects of having universal suffrage in Hong Kong in the near future and the degree of democracy the city can enjoy in 2007 and 2008 will hinge on whether Chinese leaders can dispel their fear of democratic development in Hong Kong.

The Chinese Communist Party fears that democratization in Hong Kong would affect the party's control over Hong Kong and would have spillover effects in China, which would, in turn, undermine the party's governance in the country. Such fear also explains Beijing's resistance to testing universal suffrage in Hong Kong even though the city satisfies the condition of adequate education level as mentioned by Premier Wen Jiabao during his interview with the Western media in late 2003. Mr. Wen explained that, due to the population's inadequate education level, China can only have direct elections in villages, introduce suffrage for the election of people's deputies at the level of townships and counties, and practice indirect elections for the leadership of provinces, autonomous regions, municipalities, and central authorities.

Beijing's fear of democratic development in Hong Kong is enormous. This is reflected in the high price that Beijing was willing to pay when it interpreted the Basic Law and issued the April 26 ruling. Chinese leaders knew very well that their actions would cause a major blow to public confidence in Hong Kong, draw condemnations from the international community, and tarnish the image of "one country, two systems" so severely that Taiwanese would find peaceful reunification under this formula untenable. In fact, even though the majority of Hong Kong people oppose independence for Taiwan, they have lost so much faith in the "one country, two systems" model that approximately 37.6 percent of 1,027 respondents in a poll said the model would not be suitable for Taiwan.

Such enormous fear also blurs Chinese leaders' vision, causing them to take measures that are disproportional to the actual situation in Hong Kong. Take the April 26 decision as an example. Before it was made, polls showed that public support for universal suffrage in 2007 and 2008 had dropped from over 80 percent last July to about 50 percent. A growing number of Hong Kong people had faced the political reality that Beijing would not approve full democracy in the near future. The drop in support for universal suffrage in those two years was most obvious after Beijing interpreted the Basic Law. Pragmatic politicians and scholars had also begun proposing alternative reform plans. Some suggested, for example, that the size of a committee that is responsible for electing Hong Kong's chief executive should be expanded from 800 members to at least two thousands.

Beijing should be pleased to see these changing attitudes in Hong Kong society and could, therefore, have decided to leave the entire electoral reform matter to the city. Beijing could have felt assured that given these changing attitudes, it would be extremely unlikely that any "universal suffrage by 2007" proposal would win the votes of two-thirds of Hong Kong legislators. Even if this might happen, the proposal could not be ultimately adopted without approval from Chief Executive Tung Chee-hwa, Beijing's man, and Beijing itself.

Beijing's failure to assess the actual situation in Hong Kong also shows that Mr. Tung as well as pro-Beijing advisers and Chinese officials in Hong Kong have not fulfilled their role in keeping Beijing fully informed. Their inability to understand the public also explained their failure to predict a series of events happened in Hong Kong. They underestimated the size of the demonstrations held on July 1, 2003 and January 1, 2004. They did not expect the landslide victory of pro-democracy can-

didates in district level elections held in November 2003. They mistakenly believed that economic benefits would dampen the public's desire for full democracy.

To dispel Chinese leaders' enormous fear of democratic development in Hong Kong, pro-democracy advocates in the city must establish a dialogue with these leaders to work out their differences with no further delay. Developments over the past ten days have been encouraging. Apparently driven by poll results that showed the public's strong request for a more moderate approach in dealing with Beijing, democrats softened their tone on political issues and expressed interest in meeting with Chinese leaders. Beijing has given positive responses.

Last Friday's successful meeting between democrats and Mr. Tung as well as Mr. Tung's unconditional pledge to help some democrats regain access to the mainland marked a significant progress. This may pave way for constructive dialogue between the pro-democracy camp and Beijing. The dialogue would help them develop mutual trust, which is crucial for democratization in Hong Kong and the successful implementation of the "one country, two systems" principle.

III. U.S. Policies towards Hong Kong

The series of challenges that Hong Kong has faced over the past several months has raised doubts in the international community including the United States about the autonomous status of the territory. There have been suggestions that the President should exercise his power under the U.S.-Hong Kong Policy Act to change the U.S. policy towards Hong Kong.

Under this act, the United States offers Hong Kong treatment different from that accorded to mainland China. This treatment covers a wide range of areas including export controls, customs, air services, as well as cultural and educational exchanges. Should the President, after consulting with Congress, find that Hong Kong is "not sufficiently autonomous" to justify this special treatment, he may issue an Executive order to suspend any of these policies.

The United States should not make any changes to the U.S. policy towards Hong Kong as stated under the U.S.-Hong Kong Policy Act for four reasons:

- It is premature to decide that Hong Kong is "not sufficiently autonomous".
Although the three incidents described above have raised grave concerns about the implementation of "one country, two systems" in the city, there is no solid evidence to show that they have negated the high degree of autonomy exemplified in many other aspects of governance in Hong Kong. In its recent U.S.-Hong Kong Policy Act Report, which assesses developments in Hong Kong spanning from last April to the time before the issuance of the interpretation of the Basic Law, the U.S. State Department rates highly the implementation of "one country, two systems" in the city.
Moreover, the interpretation of the Basic Law and the April 26 ruling were mainly made as a result of Beijing's misjudgment of the actual situation in Hong Kong. They do not necessarily show Beijing's intent to breach its promise of implementing the "one country, two systems" principle. Had Beijing had such intent to breach the promise, it could have done so earlier. Instead, the first six and a half post-reversion years saw Hong Kong maintain a high degree of autonomy and this achievement was widely recognized by the international community including the United States.
Beijing's judgment of the actual situation in Hong Kong would improve after it meets with Hong Kong's pro-democracy advocates. Their dialogue would also facilitate democratization in Hong Kong and the successful implementation of the "one country, two systems" principle. The United States should welcome this progress and must not change its stance prematurely.
- Any changes could undermine Hong Kong's confidence and prosperity that the United States has committed to play an active role in maintaining.
Under the U.S.-Hong Kong Policy Act 1992, the United States pledges to "play an active role, before, on, and after July 1, 1997, in maintaining Hong Kong's confidence and prosperity" and "Hong Kong's role as an international financial center." Some supporters of Hong Kong suggest that changes in the U.S. policy towards Hong Kong will have no punitive impact on Hong Kong, but will merely serve as a clear message to China that the United States has given up hope of "one country, two systems". This is not accurate. Such message will go beyond Chinese leaders to reach foreign investors. The message itself will severely damage Hong Kong's confidence and prosperity that the United States has pledged to maintain. Hong Kong people need encouragement but not punishment.
- Any changes could hinder the U.S. efforts in promoting political and legal reforms in China.

The governmental and non-governmental sectors in the United States have played an effective role in supporting political and legal reform programs in China. Any changes to U.S. policies towards Hong Kong would escalate U.S.-China tensions. This would make the resumption of U.S.-China human rights dialogue more unlikely and might provoke China to terminate other technical assistance projects jointly organized by Americans and Chinese.

- Any changes could damage the economic interests of the United States in Hong Kong and the country's security interests in Asia.

Any changes to U.S. policies towards Hong Kong could also affect U.S. businesses operating in and with the city. Hong Kong is ranked second among the top ten countries/cities with which the United States has a trade surplus. As of April 2004, the year surplus was about US\$2.3 billion. More than 1,100 American firms operate in the city with more than US\$ 38.5 billion invested.

Any changes to U.S. policies towards Hong Kong could undermine the security interests of the United States. These changes might breed anti-American sentiments in Hong Kong, one of the most Westernized cities in Asia, as well as in mainland China. This could weaken Beijing's interest in employing more political and economic leverage to persuade North Korea to dismantle its nuclear weapons and ballistic missile programs, upon which both U.S.-China relations and security in Asia depend.

For these four reasons, I urge Congress not to consider any changes to the U.S. policy towards Hong Kong as authorized under the U.S.-Hong Kong Policy Act.

Mr. LEACH. Thank you all very much for your testimony.

Let me begin by asking a question. Given that the basic framework that Beijing has accepted is eventual democracy, is it your belief that Beijing's decisions relate exclusively to concerns about what is happening in Hong Kong? Do they relate more to what is happening potentially in Taipei, or do they relate more to fear of spill-over effects in other parts of China itself? Is there an inter-relationship between the three, and if there is, which is the dominant?

Dr. Overholt?

Mr. OVERHOLT. I think, Mr. Chairman, that when they think about Hong Kong their focus is on Hong Kong but I think it is tremendously affected by the atmosphere and security concerns, the national unity concerns that are created by what is happening in Taiwan. That is just a pervasive influence on Chinese foreign policy.

I don't think that fear of a Hong Kong democracy as a precedent for mainland democracy is a major issue. A number of people, very senior in the Chinese government, privately express admiration for Taiwan's democracy. There is absolutely no opposition in Beijing to democracy in Taiwan. It is not seen as a threat. The sovereignty issue is. These are different, even though some people try to conflate them. So even though alleged Beijing fear of the precedent has been kind of cliché in the west I don't think that is a major concern. I think if it had been they wouldn't have written eventually universal suffrage into the Basic Law. Nobody made them do that.

Mr. MANIKAS. I think there is a tendency on the part of the Chinese officials to conflate the desire for accelerating democratic change with a challenge to the very authority of the central government. I think that is a mistaken view, but I think it is one that is sometimes apparent.

Also, I think in our discussions with officials in Beijing, they repeatedly—and not in connection to Hong Kong, but more generally—are very concerned about the experience of the Soviet

Union. They see any sort of uncontrolled change as potentially leading to an unraveling of the state. And so they are always looking for ways, I think, that they can proceed with reforms without it getting out of control. That is sort of a mental framework in which Hong Kong is viewed as well.

Mr. LEACH. Ms. Hung?

Ms. HUNG. There were some suggestions in Hong Kong that the reason why Beijing interpreted the Basic Law right after the Taiwan elections is that Beijing was very worried about whether a similar case would happen in Hong Kong. But I don't believe that this is the reason. The real reason is as stated in my oral testimony and also written testimony, the fear on the part of Beijing leaders. They fear two things. Losing control of Hong Kong and spill-over effects in mainland China.

The logic is like this: Actually if they are very serious about peaceful reunification with Taiwan, they should treat Hong Kong nicer, to set a very good example. However, they haven't done that, even though they understand that that would actually scare the Taiwanese. The reason why they didn't do that in Hong Kong is because they do not foresee peaceful reunification with Taiwan will happen immediately, whereas the threat of demonstration in Hong Kong to mainland China is, in Beijing's opinion, more imminent.

Mr. LEACH. One final question. Given the circumstances, certainly from the tenor of Dr. Overholt's comments, what is your advice to Congress on how best to influence in a positive way events in Hong Kong. Are we wise to raise our voices loud and boisterously? Are we wise to take a lower key approach? Are we wise to look for a review of the Hong Kong circumstance in aggressive ways, or are we wiser to lay things forth in a more calm manner? Do you have any advice in this regard?

Mr. OVERHOLT. I think the louder and more boisterous we are the more the enemies of democracy will be able to characterize this as an American/Chinese confrontation, and not as a—

Mr. LEACH. Would you call that the fourth confusion?

Mr. OVERHOLT. That is definitely a fourth confusion. We need to support the democracy movement in Hong Kong which is very much trying to lower the tone, lower the decibel level, get Beijing comfortable with democracy. That is a very feasible goal. Even on April 29th, Premier Wen Jaibao recommitted to the idea of full universal suffrage eventually. What they want to see progress is step by step, the way they do their economics, the way they do their political reforms at home, so that these fears of things getting out of control don't get invoked.

We need to support what the democracy movement is doing and any loud, boisterous, threatening actions will undermine that. Action to change the status of Hong Kong in our laws is just going to add damage to whatever damage Beijing may be at risk of doing.

So there are times for very strong action and very loud noise. If there is a threatened invasion of Taiwan, loud noise and strong actions may have the desired result. In this case, quiet, rational thinking is needed. That doesn't mean that it is not a good idea to hold hearings to express views, to communicate very firmly in more quiet conversations to them what a big mistake we think they have

made in some of these decisions. But we mustn't add to the boisterousness of the situation.

Mr. MANIKAS. It seems to me that there are three things that the United States Government can do. While I certainly agree that stridency is not wise, it seems to me very important, nevertheless, to insure the people of Hong Kong that the attention of the international community is on Hong Kong, particularly during the period of the upcoming elections. That people actually do, in fact, continue to care about the pace of democratization.

The second matter is providing support to the democratic activists in Hong Kong, as has been done over the past several years.

And thirdly, facilitating a direct dialogue between the democratic activists and the Chinese central authorities. One of the most striking features of Hong Kong policies is the lack of direct communication, wherein democratic activists are even denied access to the mainland. They can't travel there to see their relatives. And there is really virtually no dialogue at all.

So anything that can be done, I think, quietly to facilitate that kind of dialogue would be very helpful.

Ms. HUNG. I think assistance from the United States can be divided into two different levels for consideration. One is the government and the other is the non-government sector.

For the government, I assume it is better for the United States Government to adopt a low profile, while expressing concerns through diplomacy, private conversations. Right now the main concern among Chinese leaders is that they suspect pro-democracy advocates in Hong Kong are in some way associated or influenced by American government. So the more vocal American government tries to be, the more damage it could actually do to the pro-democracy advocates' efforts.

Regarding the non-governmental organizations, I believe that they can play a good role considering the prospect of having dialogue between pro-democracy camps in Hong Kong and Beijing. These pro-democracy advocates are not really familiar with how to deal with the Chinese government and how to establish negotiations with it. So I think that these non-governmental organizations can provide good advice and share useful experiences to advise them as to how to develop the dialogue and how to coordinate among themselves to conduct a very fruitful negotiation with China.

Mr. LEACH. Thank you.

Mr. Faleomavaega?

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. As follow up to the Chairman's line of questioning, and listening also to Dr. Overholt's earlier statement about being careful on our part, in our nation, where we don't overreact. And I just want to share with the members of the panel, I think, two events of the past that have given classic examples of overreaction where it really caused some very serious repercussions, and the problems that have been, I think, totally impacting, not only the thinking of the leaders of Beijing, but even in our own country.

I cite the Tiananmen Square as an overreaction, at least in our opinion, of the Chinese government to quell the demonstrations where obviously what happened, what it produced. And the over-

reaction also where President Clinton has had to send two battle groups to the Taiwan Straits because of what had happened. And I think what I am trying to share with the members of the panel here—you have got pro-democracy or pro-sovereignty advocates. And I think the situation in Taiwan does have very serious implications in what is happening in Hong Kong as well.

The question here is how we are going to be addressing these elements within Hong Kong as to the developments happening out of Taiwan. As you know, recently, the President of Taiwan strongly advocated the idea to seek sovereignty and complete independence from Beijing and I think President Bush was very, very strong in his reaction that not only is it going to seriously affect the current relationship between our country and China, but the crisis that happened in the Taiwan Straits, as I remember—and I am sure the Chairman does—that was really a critical moment where it could have been—a press of a button at the wrong time in the wrong place—it is almost like here are the people of Taiwan and those are advocating sovereignty and causing a nation like China and our country to go to war. I think we are being a lot more serious in looking at the idea that there are those elements, whether it be in Taiwan or in Hong Kong, stirring up the pot, so to speak, and getting us involved in a very negative way rather than being constructive.

And I want to ask the members of the panel if the movement in Hong Kong among its residents—is it really as strongly demonstrated by those people than by the people in Taiwan about getting more independence or eventual sovereignty and total independence from Beijing contradicting the entire policy that we have been living up with, with China for the past several years. Am I making myself clear on this?

Mr. OVERHOLT. Yes. I think you are clear about the issue. In Hong Kong there simply is no substantial independence movement. There is exactly one legislator who has, on occasion, said things which might or might not be interpreted as supporting Taiwan independence, but not Hong Kong.

The democracy movement in a sense has been absolutely in line with the rest of Hong Kong society in not questioning that Hong Kong is part of China. And that is one of the things that should make Beijing more comfortable with the idea that they can deal with these people.

There have been some leaders of the democracy movement who made a career out of creating antagonism toward China and in many cases, gratuitous antagonism. For instance, coming here and telling people that they were likely to be assassinated or jailed right after July 1, 1997. That just created a lot of unnecessary ill will. But even that has toned down enormously since 1997. So Beijing should be very encouraged by the trend.

And this month everybody is lining up to underline basic loyalty to the concept that Hong Kong is part of China. So it is just not an issue there.

Mr. MANIKAS. I fully agree with that. In fact, the trends in Hong Kong and Taiwan are in the opposite direction. And what you have seen in Taiwan, I think, over the last several decades is gradual development of a very distinct Taiwanese identity.

In Hong Kong many more people now identify with China than they did when it was a British colony. So in a sense, I think that should be somewhat edifying to the authorities in Beijing. They should feel much more comfortable with how things are developing politically.

Ms. HUNG. I agree with the other two speakers. I just want to provide two pieces of information. While Hong Kong people, most of them, do not want to be independent. They did not want independence even at the time when the Sino-British Joint Declaration of 1884 was negotiated at the time when the future of Hong Kong was decided.

At that time, some academics proposed that maybe Hong Kong could use or claim that it has the right to self-determination under international law to claim independence. But this remained an academic debate. That is all. No one was serious about this, because it is not practical. No one thought that was a practical solution, because Hong Kong people's water and food supply is heavily dependent on mainland China. So it never, never occurred to Hong Kong people that we should be independent.

Especially now, think about the economic situation in Hong Kong. Again, the Hong Kong economy is heavily dependent on the mainland. So, for that reason, it is totally groundless to say that Hong Kong people want to be independent.

Another piece of information I want to provide is a recent poll in Hong Kong. Even though the majority of Hong Kong people oppose independence for Taiwan, they have lost so much faith in the "one country, two systems" model that approximately 38 percent of 1,027 respondents in the poll said the model would not be suitable for Taiwan. That is quite interesting. And you can also see how much damage has been done because of the recent developments.

Mr. FALCOMA. One of the arguments, Mr. Chairman, and I am sure you are aware of this, in fact. You mentioned that we have a \$38 billion trade investment with Hong Kong and I am curious of the panel—how much investments go from Hong Kong into China? I am aware that despite all his rhetoric and the relations between Taiwan and Beijing and yet Taiwan, I think, has about \$100 billion unofficial trade relationship with Beijing.

So there are some contradictions here, and it is somewhat difficult for us sometimes to ascertain. But the bottom line is the resolution is being floated around that is, I think, somewhat critical of China toward the situation in Hong Kong—I want to ask the members of the panel, as my last question, if you think that resolution is in order, or should this be the way the Congress should be acting properly in terms of what is happening in Hong Kong?

I get the impression that all of you would prefer that we ought to maintain the current situation without being full of what they say in the Hawaiian language is a lot of WaHa, which is hot air. Excuse the expression, Mr. Chairman. But at any rate, I just wanted to get the—am I correct that the overall view of the panel is that things are going pretty well, although it is not 100 percent perfect? But it is a lot better than it was before, and I just want to get a sense from the panelists if this resolution that we are going to be addressing—probably very soon—compliments what you

are saying, or are we going to go in a different direction in that respect?

Mr. MANIKAS. I am not sure that I can answer this directly, but I think that the vision we have that the government should take is somewhat nuanced. I mean, I think it would be a mistake to say that everything is fine and developing as we all would like. I think it is important to focus attention on Hong Kong and to acknowledge that this is a situation which the international community cares about, and we are watching the situation develop.

If a resolution does that without being strident or threatening, such a resolution might be worthwhile. I think we all agree that stridency is something that we all want to avoid; we don't want to make the situation worse. On the other hand, it seems to me that we do want to let people know that we care and we are not going to ignore how things develop.

Mr. OVERHOLT. I think we have a clear consensus on the panel, and the way I would express it is some bad things have happened, and in facing those bad things we should do things that make the situation better for Hong Kong people, not worse. Changing the status of Hong Kong is just going to make things worse for Hong Kong people.

Ms. HUNG. I always believe that we can take some positive measures. Think about, for example, that there has been some suggestion that some new political parties may be organized in Hong Kong by some professionals who support democracy but do not support radical approach. So these professionals are exploring means to establish their voice. But they do not have any experience in organizing political parties.

So for that reason, I think non-governmental organizations from the United States or the international community may play a role by meeting with them, giving them some useful advice. And I think that actually would be more useful than seeking any confrontations with the Chinese government directly by Congress.

Mr. FALCOMA. Thank you, Mr. Chairman.

Mr. LEACH. Thank you.

Well, let me thank you all for your fine testimony and thank you for making an effort to come today. We appreciate it. This is as reasoned a set of comments as I have heard on any subject in a long time. Thank you all.

The Subcommittee is adjourned.

[Whereupon, at 2:10 p.m., the Subcommittee was adjourned.]

A P P E N D I X

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June 14, 2004

The Honorable Eni F.H. Faleomavaega
Member of U.S. Congress
2422 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Faleomavaega,

I have learned that Congressman Chris Cox introduced a resolution on June 9 (H. Res. 667), which is identical to the joint resolution introduced by Senator Sam Brownback on April 21. The Resolutions distort basic facts and make groundless accusations of the Chinese Government on the question of Hong Kong. I am therefore writing today to express to you the grave concern of the Chinese Government over the above Resolutions.

The Chinese Government has always handled the Hong Kong question in strict compliance with the principles of "one country, two systems" and the Basic Law. In the nearly seven years since Hong Kong's return, we have been fully and faithfully implementing our commitments. The previous way of life and social system of Hong Kong have remained unchanged. The laws have basically unchanged. Hong Kong residents have continued to enjoy all freedoms and rights prescribed by the law. Hong Kong remains an international trade, financial and shipping center. This is there for all to see.

The U.S. Government has also stated that it supports "one country, two systems" and the Basic Law, and that it has no intention to interfere in Hong Kong's affairs. However, the above Resolutions are not only in violation of the commitments of the U.S. Government, but are also based on prejudice and unfounded accusations.

The assertion in the above Resolutions that China has "frustrated the gradual and orderly process toward universal suffrage and the democratic election of the legislature and chief executive in Hong Kong" is simply false. As a matter of fact, developing democracy and freedom in Hong Kong under the Basic Law, in light of Hong Kong's actual situation and in accordance with the principle of gradual and orderly progress is precisely the firm and consistent position of the Chinese Government. Since the establishment of the Hong Kong Special Administrative Region, its political structure has been developing in a gradual and orderly manner. People in Hong Kong have been enjoying unprecedented democratic rights in the last seven years vis-à-vis the 150 years under the British rule. This is a fact recognized by the whole world.

The Resolutions also accuse the Standing Committee of China's National People's Congress for its interpretation of the Basic Law. In fact, Article 158 of the Basic Law clearly stipulates that "[t]he power of interpretation of this Law shall be vested in the Standing Committee of the National People's Congress." The NPC Standing Committee always exercises this power in a serious, responsible and cautious spirit, and solicits views of people from all walks of life in Hong Kong. Any interpretation of the Basic Law will therefore be made following, rather than "as opposed" to, the will of the people of Hong Kong, as charged by the Resolutions.

A stable and prosperous Hong Kong is in the long-term interests of the entire Chinese people, particularly Hong Kong residents. It also serves the interests of the international community, including the United States. It is very important to prevent the issue of constitutional development from being used to sow discord and create confusion in Hong Kong.

Dear Congressman, I trust that you will appreciate the sensitivity of the Hong Kong issue, and will adopt an objective and rational view of the whole situation. I will be very happy to discuss with you any questions you have on the Hong Kong issue. And I do hope you will not support H. Res. 667, or Senator Brownback's joint resolution, or anything similar in the future.

Thank you for your attention to this matter. Looking forward to seeing you.

With best wishes,

Sincerely,

Yang Jiechi
Ambassador

